8-30-90
Vol. 55 No. 169

federal register

Thursday
August 30, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

8-30-90
Vol. 55 No. 169
Pages 35419-35554

federal register

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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WASHINGTON, DC

WHEN: September 21, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street, NW., Washington, DC.
RESERVATIONS: 202–523–5240.

DALLAS, TX

WHEN: September 25, at 9:00 a.m.
WHERE: Federal Office Building, 1100 Commerce Street, Room 7A23–175, Dallas, TX.
RESERVATIONS: 1–800–366–2998.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 6173 of August 28, 1990

Citizenship Day and Constitution Week, 1990

By the President of the United States of America

A Proclamation

Well over a century ago, while reflecting upon the course of our national journey, Daniel Webster observed: "We may be tossed upon an ocean where we can see no land—nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. That chart is the Constitution." If we are to remain a free, strong, and prosperous nation as we navigate ever new and uncharted territory in domestic and foreign affairs, every American must have a thorough understanding of our Constitution, its history, and the timeless principles it enshrines.

During the long, hot summer of 1787, the 55 delegates to the Federal Convention engaged in fervent study, debate, compromise, and prayer as they shaped a system of government for our fledgling Nation. Recognizing the God-given rights and dignity of the individual and determined to secure the freedom he has envisioned for each of us, they carefully crafted our Constitution, dedicating this Nation to the ideals of liberty, justice, and equality and providing for the separation of powers that has served us so well. Today, more than 200 years after it was written, our Constitution—and the Bill of Rights later added to it—is not only a shining testament to the wisdom and foresight of its Framers but also a light of hope and inspiration to the world.

In this 4th year of the Constitution's bicentennial, we commemorate the establishment of the Nation's judicial system. Article III of the Constitution defines the powers of the judiciary; however, it was the First Congress under the Constitution that gave it form and substance. The Judiciary Act of 1789 provided for a Supreme Court and created the office of the Attorney General. It also established a Federal judicial structure of 13 district courts and three circuit courts and defined their jurisdiction. When the Supreme Court met for the first time in February 1790, the dual judicial system of State and Federal courts was firmly established. Then, as now, State courts conducted most of the Nation's judicial business. The Federal courts have the authority to decide only those cases that involve the violation of Federal law or as otherwise specified by the Constitution.

This Nation's independent judiciary, dedicated to upholding the rule of law and the rights of individuals, has reaffirmed time and again the inestimable value of our Constitution. Asserting that no person shall be "deprived of life, liberty, or property, without due process of law" and guaranteeing every American "equal protection of the laws," the Constitution has remained a powerful governing tool and an effective instrument of justice to this day. The great American jurist, John Marshall Harlan, underscored the significance of its guarantees of equal justice under the law when he wrote: "Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful."

This week, we celebrate our Constitution and its promise of liberty, equality, and justice for all. In times of doubt and decision, generations of American leaders have looked to this great document for guidance; generations of patriots have labored and sacrificed to defend the principles it sets forth. If we

are to keep faith with them, if we are to continue to enjoy the blessings of freedom and self-government, each of us must understand our rights and responsibilities as citizens.

Each of us has not only the right but also the obligation to become educated and informed; to vote; and to participate at all levels of government. However, as President Theodore Roosevelt well knew, there is more to responsible citizenship. "The good citizen," he once observed, "is the man who, whatever his wealth or poverty, strives manfully to do his duty to himself, to his family, to his neighbor, [and] to the State; who is incapable of the baseness which manifests itself either in arrogance or in envy, but who while demanding justice for himself is no less scrupulous to do justice to others." Responsible citizenship begins with being a loving and responsible parent, an eager and attentive student, and a just and caring neighbor.

As citizens of the United States, we are not just the beneficiaries of our Founding Fathers' great experiment in self-government—we are also its custodians. Thus, as we observe Citizenship Day and Constitution Week, we do well to reflect upon our Constitution and its history, as well as our role in upholding the vision of freedom and justice it enshrines.

The Congress, by joint resolution of February 29, 1952 (36 U.S.C. 153), designated September 17 as "Citizenship Day" in commemoration of the signing of the Constitution and in recognition of all who, by birth or by naturalization, have attained the status of citizenship, and authorized the President to issue annually a proclamation calling upon officials of the government to display the flag on all government buildings on that day. Also, by joint resolution of August 2, 1956 (36 U.S.C. 159), the Congress designated the week beginning September 17 and ending September 23 of each year as "Constitution Week" in recognition of the historic importance of the Constitution and the significant role it plays in our lives today.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim September 17, 1990, as Citizenship Day, and call upon appropriate government officials to display the flag of the United States on all government buildings. I urge Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs to commemorate the occasion.

Furthermore, I proclaim the week beginning September 17 and ending September 23, 1990, as Constitution Week, and I urge all Americans to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of August, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-20669
Filed 8-28-90; 4:39 p.m.]
Billing code 3195-01-M

Presidential Documents

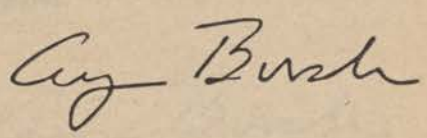
Presidential Determination No. 90–30 of August 15, 1990

Determination Under Section 402(c) (2) of the Trade Act of 1974—German Democratic Republic

Memorandum for the Secretary of State

Pursuant to section 402 (c)(2) of the Trade Act of 1974 (the "Act"), 19 U.S.C. 2432(c)(2), I determine that a waiver by Executive order of the application of subsections (a) and (b) of section 402 of the Act with respect to the German Democratic Republic will substantially promote the objectives of section 402.

You are authorized and directed to publish this determination in the **Federal Register.**



THE WHITE HOUSE,
Washington, August 15, 1990.

[FR Doc. 90–20651
Filed 8–28–90; 3:55 pm]
Billing code 3195–01–M

Editorial note: For the President's letter to the Speaker of the House of Representatives and the President of the Senate, dated Aug. 15, on trade with the German Democratic Republic, see the *Weekly Compilation of Presidential Documents* (vol. 26, p. 1255).

Presidential Documents

Presidential Determination No. 90–31 of August 17, 1990

Determination Under Section 2(b) (2) of the Export-Import Bank Act of 1945, as Amended—German Democratic Republic

Memorandum for the Secretary of State

Pursuant to section 2(b)(2) of the Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635(b)(2), I hereby determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit and participate in the extension of credit in connection with the purchase or lease of any eligible product or service of U.S. origin by, for use in, or for sale or lease to the German Democratic Republic.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, August 17, 1990.

[FR Doc. 90–20652
Filed 8–28–90; 3:56 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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Thursday, August 30, 1990

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1786

RIN 0572-AA42

Prepayment of REA Guaranteed Federal Financing Bank Loans

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule; amendment.

SUMMARY: The Rural Electrification Administration (REA) is amending 7 CFR chapter XVII by amending part 1786, Prepayment of REA Guaranteed Federal Financing Bank Loans. This amendment establishes policies and procedures relating to the prepayment of certain loans held by the Federal Financing Bank ("FFB"), a wholly-owned government instrumentality under the supervision of the Secretary of the Treasury, and guaranteed by REA, by financially distressed and other electric borrowers.

These regulations implement the provisions of section 637 of the 1989 Appropriations Act which allocates $350 million of this $500 million of prepayment activity to REA financed electric utilities, and the remaining $150 million to REA-financed telephone utilities.

These prepayments will be carried out under the provisions of section 306(A) of the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*) (the "RE Act"), section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Pub. L. 100-202) the "Continuing Resolution"), and section 637 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Pub. L. 100-460) (the "1989 Appropriations Act").

DATES: Final Rule is effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Laurence V. Bladen, Financing Policy Specialist, Rural Electrification Administration, Room 1272, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone number (202) 382-9558.

SUPPLEMENTARY INFORMATION: Pursuant to the RE Act, REA hereby amends 7 CFR chapter XVII by amending part 1786, Prepayment of REA Guaranteed Federal Financing Bank Loans.

This amendment is issued in conformity with Executive Order 12291, Federal Regulation. It will not (1) Have an annual effect on the economy of $100 million or more; or (2) result in a major increase in costs or prices for consumers, individuals, industries, Federal, state, or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and has been determined not to be "major".

This action does not fall within the scope of the Regulatory Flexibility Act. REA has conclued that promulgation of this final rule does not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976) and, therefore, does not require an environmental impact statement or an environmental assessment. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees and 10.851, Rural Telephone Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR part 3015 subpart V in 50 FR 47034, (November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

This rule does not contain new or amended reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget under OMB approval number 0572-0088.

The public reporting burden for this collection of information is estimated to vary from 10 to 200 hours per response with an average of 27 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250 and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0572-0088), Washington, DC 20503.

Background

On May 23, 1989, REA published a Proposed Rule at 54 FR 22290 proposing to revise 7 CFR part 1786. After issuing that proposed rule, and in the process of developing the final rule, REA determined that it would make certain changes relating to the financially distressed borrowers' reserve. Because these changes were substantive, REA decided to solicit public comment on these proposed changes, while permitting telephone borrowers to make par prepayments.

On January 11, 1990, REA published a Final Rule at 55 FR 1142, revising 7 CFR part 1786, Prepayment of REA Guaranteed Federal Financing Bank Loans, which implemented the prepayment program in the amount of $150 million for REA-financed telephone systems. This Rule set forth the REA policy and procedures implementing section 306(A) of the RE Act which permits an REA-financed electric or telephone system to prepay an FFB loan (or any loan advance thereunder) by paying the outstanding principal balance due on the loan (or advance), if:

(a) The loan was outstanding on July 2, 1966;

(b) Private capital, with the existing loan guarantee, is used to replace the loan; and

(c) The borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

On the same day, REA published at 55 FR 1152, a Proposed Rule; Amendment, which addressed prepayment applications from financially distressed and other electric borrowers.

Comments

In the January 11, 1990 Proposed Rule; Amendment, REA invited interested

parties to file comments on or before February 12, 1990. Nine different organizations or groups commented on the January 11, 1990 Proposed Rule; Amendment during the comment period. They were:

1. National Rural Electric Cooperative Association.
2. Smith Barney.
3. Arkansas Electric Cooperative Corporation.
4. Cajun Electric Power Cooperative, Inc.
5. Chugach Electric Association, Inc.
6. East Kentucky Power Cooperative, Inc.
7. Seminole Electric Cooperative Incorporated.
8. Tri-State Generation and Transmission Assoc., Inc.
9. United Power Association.

The comments of one organization were received after the expiration of the comment period and were similar to other comments that were received. All responses received within the comment period were considered in preparing this Final Rule; Amendment.

For the purposes of discussion, the comments of these organizations have been categorized.

A number of these organizations questioned the decision of REA to reserve the entire $350 million of remaining electric program prepayment authority for financially distressed electric borrowers. They felt that to do so would reward the, "* * * Failure to meet financial responsibilities * * *" and "* * * short-sighted state-regulatory agencies * * *." They indicated that "* * * healthier systems * * * should be recognized * * * rather than being directly discriminated against."

REA believes that the most critical issue facing Rural Electrification today is the massive amount of non-performing guaranteed loans in the REA portfolio. In order to maintain a viable lending program, REA must take steps to preserve the assets of the Rural Electrification and Telephone Revolving Fund (RETRF). Since the RETRF is REA's source of capital for making payments under contracts of guarantee, the use of the $350 million in remaining prepayment authority for financially distressed borrowers assists REA in achieving that goal. Therefore, REA continues to feel justified in reserving the $350 million for such borrowers.

One commentator felt that REA should not permit an REA-financed electric system which is providing assistance to another borrower which is in default or near default as part of a work out or restructuring to participate in this prepayment program. The use of prepayment authority in such a manner is, in REA's judgement, consistent with the generally accepted business practice of providing economic incentives to third party corporations assisting creditors with financial restructurings. Therefore, the commentator's proposed change was not accepted.

Other organizations suggested that the amount of prepayment authority be increased beyond the $350 million currently available to electric borrowers. Such a modification is clearly not within the scope of REA's authority under the various statutes which established the par prepayment program.

The principal modifications to 7 CFR part 1786 are summarized as follows:

The definition of the application period is being modified to enable financially distressed borrowers to apply for, and consummate a prepayment during a three year period after publication of the final rule. REA made the decision to lengthen the application period to three years for a number of reasons. On March 30, 1990, after a year of negotiations and after the publication of the Proposed Rule; Amendment, another financially distressed electric borrower filed for protection under the Bankruptcy Code. Additionally, experience has indicated that the restructuring of financially distressed borrowers takes a considerable amount of time and effort. REA does not believe that a one year period provides sufficient time to negotiate a restructuring agreement and complete a prepayment transaction for such borrowers.

The restriction limiting prepayments under the regulations to telephone borrowers was deleted.

The financially distressed borrowers' reserve is being established at $350 million. After three years, any unallocated funds remaining in the financially distressed borrowers' reserve will be allocated to borrowers filing standard electric program applications.

List of Subjects in 7 CFR Part 1786

Administrative practice and procedure, Electric utilities, Telephone utilities, Guaranteed loan program—energy, Guaranteed loan program—telephony.

In view of the above, REA is amending 7 CFR chapter XVII by making the following revisions and amendments to part 1786 to read as follows:

PART 1786—PREPAYMENT OF REA GUARANTEED FEDERAL FINANCING BANK LOANS

1. The authority citation for part 1786 continues to read as follows:

Authority: 7 U.S.C. 901–950b; title I, subtitle B, Pub. L. 99–509; title I, Pub. L. 100–202; Pub. L. 100–203; title VI, Pub. L. 100–460; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

2. Section 1786.3 is being amended by revising the definition of "Application Period" in paragraph (a) to read as follows:

§ 1786.3 Definitions and rules of construction.

(a) * * *

Application period means a period during which REA is accepting applications to make prepayments pursuant to this part, and initially means:

(1) In the case of telephone borrowers, the period commencing on February 12, 1990 and ending on March 12, 1990;

(2) In the case of financially distressed borrowers, the period commencing October 1, 1990 and ending on July 30, 1993; or

(3) In the case of other borrowers, the period to be announced by REA.

* * * * *

3. Section 1786.4 is being amended by revising paragraphs (a)(2) and (a)(3) to read as follows, removing paragraph (a)(4) and revising paragraph (f)(2) to read as follows:

§ 1786.4 Qualifications.

(a) * * *

(2) Prepay the FFB loan by:

(i) using a private loan with the existing loan guarantee;

(ii) using internally generated funds; or

(iii) using a combination of a private loan with the existing loan guarantee and internally generated funds; and

(3) Certify that any savings resulting from such prepayment will be passed on to its customers, or used to improve the financial strength of the borrower in cases of financial hardship.

* * * * *

(f) * * *

* * * * *

(2) *Financially distressed borrowers.* FFB loans that are eligible to be prepaid by utilizing the financially distressed borrowers' reserve are advances with long-term maturity dates, and which in the opinion of the Administrator, if prepaid, would result in an economic

savings to the financially distressed borrower.

4. Section 1786.5 is being amended by revising paragraph (d) to read as follows:

§ 1786.5 Prepayment authority, program allocations, categories of prepayment applications and financially distressed borrowers' reserve.

* * * * *

(d) *Financially distressed borrowers' reserve.* The $350 million of prepayment authority allocated for REA-financed electric utilities, is initially set aside into a financially distressed borrowers' reserve. This reserve of prepayment authority will be available for prepayments pursuant to this part by financially distressed borrowers who apply to make such a prepayment during the application period. In the event that a portion of financially distressed borrowers' reserve remains unsubscribed at the end of the initial application period, the unallocated portion of the financially distressed borrowers' reserve will be allocated to other electric borrowers having submitted applications during an application period to be announced by REA. Such prepayment applications shall be classified as standard electric program applications.

Dated: June 20, 1990.

George E. Pratt,

Acting Administrator.

[FR Doc. 90-20497 Filed 8-29-90; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010-AB42

Coal Product Valuation

August 22, 1990.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is amending its regulations governing the value of coal production from Federal coal leases. Under the rules being adopted, Federal coal lessees no longer would be permitted to deduct or exclude the costs of Federal Black Lung Excise Taxes, abandoned mine lands (AML) fees, and State and local severance taxes from the value of coal for royalty purposes. The MMS has concluded that these costs are part of the value of coal production and that MMS should return to its historical approach of requiring royalties to be paid on at least gross proceeds.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch at (303) 231-3432 or (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: The principal authors of this rule are Herbert B. Wincentsen, Rodney Noah, and Michael Throckmorton of the Royalty Valuation and Standards Division of the Minerals Management Service (MMS), Lakewood, Colorado.

I. Introduction

A notice of proposed rulemaking to amend the coal product value regulations to remove the exclusion from royalty value for the costs of Abandoned Mine Land (AML) fees, Federal Black Lung excise taxes, and State and local severance taxes was published in the **Federal Register** on February 13, 1990 (55 FR 5024), with a 60-day comment period. On April 9, 1990, notice was given in the **Federal Register** that the public comment period was extended for an additional 30 days. As part of the process of receiving public comments on the proposed rule, public meetings were held in St. Louis, Missouri, on April 11, 1990, and in Madison, Wisconsin, on May 9, 1990. During the public comment period from February 13, 1990 to May 15, 1990, a total of 221 written comments were received from industry representatives, members of Congress, State Governments, local Governments, Indian tribes, Indian organizations, and other persons. At the public meetings, 44 oral comments were made. Transcripts from these meetings were included in the record and were incorporated as comments on the rulemaking.

In addition, many comments on the issue of excluding production taxes and fees were received during the period January 13, 1989 to February 13, 1990, after publication of final coal product value regulations on January 13, 1989 (54 FR 1492).

This rulemaking addresses exclusions from royalty value permitted by regulations published January 13, 1989 (54 FR 1492), and made effective March 1, 1989. The coal product value regulations issued on January 13, 1989, were the culmination of an extensive regulatory process including multiple proposed rules, hearings, and meetings with industry and affected States and Indian tribes. The rules also were the subject of considerable study and review by the Secretary of the Interior's Royalty Management Advisory Committee. (See 54 FR 1492.) One of the most controversial issues that was addressed during the rulemaking process was whether the cost of severance taxes, AML fees, and Black Lung excise taxes should be included as part of the value of coal production and, therefore, subject to royalty. Industry commenters generally supported an exclusion from value for these production-related taxes and fees. Some western coal producing States and Indian lessors supported the inclusion of these amounts in the value of production. The preamble to the final rule explains in detail the positions of interested parties. (See 54 FR 1511-1513.)

In that rulemaking, MMS generally continued the historical practice of basing the value of coal on the "gross proceeds" accruing to the lessee from the sale under an arm's-length contract. (30 CFR 206.257(b)(1).) The term gross proceeds was defined as including all monies and other consideration accruing to a coal lessee for the production and disposition of the coal produced. (30 CFR 206.251.) However, at 30 CFR 206.257(b)(5), MMS provided that the value of coal for royalty purposes would not include the costs of severance taxes, AML fees, and Black Lung excise taxes. This exclusion was to apply only to Federal leases—Indian leases were expressly exempted.

After the final rules were published, the Department of the Interior received many requests to reconsider the question of whether production taxes and fees should be excluded from royalty value. On February 13, 1990, MMS issued a Notice of Proposed Rulemaking to reconsider this issue (55 FR 5024) for the reasons outlined in the preamble to that section.

On February 13, 1990, MMS also released its study on the fiscal and production impacts resulting from the January 13, 1989, coal product value regulations. The study found no convincing evidence that production had been increased as a result of the decrease in royalties attributable to the policy change initiated by the decision to exclude production taxes and fees from the royalty base in that rule. In addition, for the period March 1 to August 31, 1989, royalty collections were found to be approximately 15 percent (or $16.6 million dollars) less than what they would have been had the January 13, 1989, rule not adopted the exclusion for production taxes and fees.

This rulemaking revises 30 CFR 206.251 and 206.257. The definition of severance tax is removed from § 206.251. Since there no longer will be an exclusion for such taxes, it is not

necessary to retain the definition. Paragraph (b)(5) is removed from § 206.257, and paragraph (b)(6) is redesignated as a new paragraph (b)(5). Other paragraphs of § 206.257 are amended to delete references to the deleted paragraph (b)(5).

The MMS hereby adopts final regulations governing the valuation of coal from Federal leases. The regulations will apply prospectively to production on or after the effective date specified in the **EFFECTIVE DATE** section of this preamble.

II. Response to Comments Received on Proposed Coal Product Value Regulations

Many different reasons were provided to MMS for its consideration regarding the proposal to remove the production tax and fee exclusions from the value of coal for royalty purposes. These reasons are addressed individually in the material that follows. Parties generally opposing the proposed rule to remove the exclusions for production taxes and fees include coal mining companies, electric utilities, coal mining and utility trade associations, Governors and Congressmen of coal consuming States, and Governors and Congressmen of the coal producing States of Colorado and Montana. Parties generally favoring the proposed rule include railroad land grant mineral owners, environmental and public interest groups, and Governors and Congressmen of the coal producing States of New Mexico, Utah, and Wyoming.

Reason 1: Commenters opposing the proposed rule stated that the January 13, 1989, final rule allowing the exclusion of production taxes and fees from the royalty value of coal mitigates the large increase in the cost of royalties resulting from the Federal Coal Leasing Amendments Act of 1976 (FCLAA) requirement to readjust coal royalty rates from cents per ton to ad valorem rates. One commenter further explained:

> Long term coal contracts were negotiated with provisions to accommodate reasonable royalty increases, presuming they would escalate according to the market factors, similar to inflation. However, the MLA amendments did what no private coal owner could have done. They raised the royalty from flat cents per ton to a 12½ percent ad valorem basis—a unilateral change of lease terms and conditions by the coal owner. As a result, when mines are converted to the ad valorem basis, the royalty cost increases by two to eight times depending on sales price.

Commenters favoring the proposed rule argued that the Department should not be engaged in activities explicitly intended to mitigate the effects of statutes like FCLAA through administrative rulemaking. One commenter explained:

> If people believe royalty rates are too high, they should petition Congress for lower rates. The MMS should not use administrative channels to artificially reduce rates.

MMS Response: The MMS understands that readjusting the royalty rate to a 12½ percent ad valorem rate increased some royalty obligations by more than 1000 percent. In the preamble to the January 13, 1989, final rulemaking, MMS devoted an extensive discussion to the royalty rate issue. (See 54 FR 1494.) The MMS still maintains that royalty rates are not valuation issues. The 12½ percent royalty rate imposed on most surface coal operations is required by statute. The Mineral Leasing Act (MLA) of 1920, as amended by FCLAA, 30 U.S.C. 207(a), requires the Secretary to determine a royalty "of not less than 12½ per centum of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations." On January 26, 1990, the Bureau of Land Management (BLM) published in the **Federal Register** a final rule establishing a flat rate of 8 percent for new and readjusted underground Federal coal leases. (See 55 FR 2653.) The underground royalty rate requirement is codified at 43 CFR 3473.3–2 (1989).

The MLA has provisions at 30 U.S.C. 209 to reduce royalty rates for those lessees that cannot successfully operate their leases under the prevailing terms and conditions. Since 1987, BLM has had guidelines under which royalty rate reductions can be obtained. See **Federal Register** publications of June 30, 1987 (52 FR 24347), February 27, 1990 (55 FR 6841), April 30, 1990 (55 FR 12059), and May 2, 1990 (55 FR 18401). These actions make it clear that the Department's approach for mines needing royalty rate relief is through royalty rate reduction criteria allowed under 30 U.S.C. 209, applied on a lease-by-lease basis. An approach of adjusting valuation procedures to address specific mine economic problems has not historically been employed by the Department in its administration of mineral leases.

Reason 2: Commenters opposing the proposed rule generally maintained that the reduced royalty cost under the January 13, 1989, final rule benefits electric power consumers because royalty costs are ultimately passed through to and paid for by the consumers. One commenter went further, stating, "Electric customers will suffer increases in rates and utilities will lose sales of energy extremely sensitive to even minor increases in costs."

Commenters favoring the proposed rule stated the exclusions from royalty value do not measurably decrease prices paid by consumers of electric power. Other commenters stated that the small benefits gained by electric consumers in coal consuming States is at the large economic expense of the coal producing States. One individual commenting on the issue of consumer costs stated:

> The industry continues to use decreased costs to the consumer as its main rationale for justifying the 1989 rulemaking. Federal coal, however, we urgently stress to you, belongs to all the citizens of the United States, not just certain consumers, served by certain utilities, in a certain region of the country where Western coal happens to be economically marketable.

MMS Response: The MMS acknowledges that increases in the cost of royalty, in many cases, will be passed through to the electric utility purchaser and, ultimately, to the electric power consumer. This is primarily due to the current fuel contracting practices between coal producers and electric utilities in which long-term contracts include clauses which allow the price to rise with changes in taxes and royalties (among other factors). According to the text "The Business of Coal" published by Arthur Andersen & Co., the first modern long term coal supply agreement was executed in 1956. The early contracts of that period contained simple price adjustment clauses addressing cost changes due to labor and labor related cost increases, materials and supplies, and taxes. However, from the late 1960's to the present, coal producers have had to cope with numerous changes such as inflation, mine health and safety, and reclamation laws. Arthur Andersen & Co.'s "The Business of Coal" points out at page 55 that because of these changes,

> * * *[m]any producers suffered hardships because old contracts did not allow for the increased costs or decreased production caused by the Mine Health and Safety Act, the Surface Mine Control and Reclamation Act, or other law changes.

As a result, most coal supply agreements now include specific escalation factors for labor wages, labor fringe benefits, welfare fund, workmen's compensation and insurance, materials and supplies, royalties, taxes, influence of legislation on production costs, administrative expenses, and insurance on equipment.

The contractual pass-through of any cost component does not, in itself, require the Federal Government to reduce royalty costs. More fundamentally, having acknowledged

the likelihood that a substantial portion of the incidence of all coal royalties is on consumers of electricity, MMS does not believe that it should be guided, in determining rules for valuing the nation's resources, primarily by the question of who pays or who benefits from royalties.

Reason 3: Commenters opposing the proposed rule stated that it would place massive amounts of royalty revenues into the producing States' treasuries at the economic expense of coal consuming States. One commenter stated:

> Producer States argue that significant revenues have been lost since the regulation was changed in 1989, but the adverse fiscal effects which these States take issue with are in reality the loss of additional revenue over and above the sizeable revenues gained in 1988. The total western coal royalty revenue increased by $39 million from 1986 to 1989. This represents a 70 percent increase.

One commenter emphasizing this issue stated:

> In addition, any loss in revenue is more than compensated for by the current rule which allows for 50 percent of the Federal royalty revenues to be returned directly to coal-producing States, and another 40 percent to be returned to Western States for water projects.

Another commenter noted:

> The fiscal impact of reversing the current coal royalty regulation must also be analyzed from a national rather than a regional perspective. It is inappropriate to consider the fiscal impact on producing States without equal consideration being given to the negative impact in consumer States such as Wisconsin. The loss in producer State revenues represents an equal cost increase to ratepayers in our consumer States.

Commenters favoring the proposed rule noted that coal is a nonrenewable resource. As such, it can only be produced once, and whatever revenue is foregone cannot be compensated for because the land, once mined, no longer contains valuable deposits. One commenter addressing this point stated:

> * * * there is no argument that with the ad valorem rates changed, there is an increase in royalties. We think that is reflective of that value to the State. What the figures * * * do not reflect * * * is, one, production * * *. Even as production increases, for whatever reasons, royalties received will be less than under the traditional valuation methods. This is royalty revenue which the public expected to receive. Federal and State programs, when faced with a reduction in revenue, have only two choices. Dropping funding for those programs, resulting in a poorer quality program, is one choice. The other choice is to raise other revenue * * * to replace it, or shift the burdens to other programs.

MMS Response: The sharing of mineral revenues with the States from which the resource is mined is not a valuation issue, although it is clear that royalty valuation can affect revenues to both Federal and State treasuries. The sharing of coal royalty revenue is set forth under MLA, as amended by FCLAA, at section 35 (30 U.S.C. 191). The formula defines how the revenues will be shared, 50 percent to the State, 40 percent to the Reclamation fund and 10 percent to the U.S. Treasury. The legislative history of FCLAA indicates that Congress was concerned with the social and economic impacts of expanded coal production and expressly desired to increase revenues returning to the States. House Report No. 94–681, states:

> When an area is newly opened to large scale mining, local governmental entities must assume the responsibility of providing public services needed for new communities, including schools, roads, hospitals, sewers, police protection, and other public facilities, as well as adequate local planning for the development of the community. Since section 35 of the MLA of 1920 currently provides that the monies returned to the States be available only for schools and roads, it is difficult for affected areas to meet the needs of their new inhabitants. This situation exists both with respect to coal and geothermal development, as well as other mineral resources.
>
> * * * * *
>
> An effort must be made to alleviate these problems by making funds available for the various aspects of community development.
>
> As shown below, H.R. 6721 will add 12.5 percent of the monies received under section 35 of the Minerals Lands Leasing Act to the 37.5 percent share currently returned to the States.
>
> The additional 12½ percent that will go to the States is not ear-marked for schools and roads, and may be spent by the States for planning, public facilities and public services, giving priority to those communities impacted by the mineral development.

Reason 4: Commenters opposing the proposed rule stated that the January 13, 1989, final rule's lower royalty cost lowers the price of Federal coal and thus makes Federal coal more competitive with non-Federal coal and other energy sources, thereby capturing a greater market share and ultimately generating increased royalty revenues, employment, and other tax receipts.

The MMS was provided an extensive study of the Colorado coal market prepared by the Colorado Department of Natural Resources. That study concluded that the royalty valuation rules decreased the price of Colorado coal by $0.25 per ton which, along with the State's actions in reducing its severance tax and in instituting a tax credit (which reduced the price by $1.25 per ton) helped increase the production of Colorado coal by 11 percent in the first three quarters of 1988 from the nadir of recent production in 1987.

Commenters favoring the proposed rule disputed the conclusions drawn by those opposing the proposed rule as well as the professed goal to assist western coal production and sales. One commenter stated that:

> The historical record shows that the increases in Federal coal royalty rates, resulting from the change to ad valorem rates, after 1976, did not lead to higher prices for western coal, and did not prevent production growth from occurring in the West. Consequently, there is no reason to assume that the reduction in effective royalty rates, resulting from the deductions that were allowed in the 1989 regulations, are going to lead to lower coal prices, or higher coal production in the future. Producer costs are simply not the principal determinant of coal prices and production rates.
>
> * * * * *
>
> Production in the Western States, which produce coal, primarily from Federal leases, or from private or Indian lands, with lease rates tied to the Federal rate, grew from 185 million tons in 1980, to 270 million tons in 1988. This was an increase of 85 million tons, or 46 percent, during this very period when Federal royalty rates were rising.

Another commenter stated that:

> The growth rate of western coal production, we would note, next, has been greater than that for the Midwestern or Eastern coal regions. Western coal producers, in other words, simply do not need help to compete against the Midwest or the Appalachian producers.

MMS Response: The MMS agrees that the historical record indicates, in general, that higher Federal royalties do not appear to have hindered the production and marketability of Western coal. The Department of Energy, Energy Information Administration (EIA) Report No. SR/CD/87–01, titled "Potential Effects of Changes in Federal Coal Royalty Rates," published September 4, 1987, summarized:

> As a result of increasing royalty rates, there is concern that the price of coal from Federal lands may rise to the point that it will be less competitive with alternative sources and fuels—including oil, gas, and imported coal and/or electricity—and thus adversely affect the Nation's energy security.

To test the above hypothesis, EIA considered three scenarios.

> The results of the three cases showed no significant impacts nationally and only modest shifts in production regionally. Electricity prices and market shares of coal for electricity generation appear essentially unaffected.
>
> Eliminating Federal royalties (Scenario C3) did show a shift from eastern to western coal of about 4.5 million tons by the year 2000, out

of a total of 1.2 billion short tons of U.S. coal production. Shifts of production within regions were somewhat more pronounced, particularly in the northern Great Plains and Rocky Mountain areas. In general, reduction or elimination of a percentage royalty increases the competitiveness of higher priced coal. However, it does not appear that coal production will be significantly slowed by the royalties now coming into effect (Scenario C1) or accelerated by elimination of royalties (Scenario C3).

While the information from the State of Colorado is locally encouraging, MMS believes that there is little evidence that the royalty rule played any significant part in the increase in production reported in the State's report. Local incentives appear to be the principal cause of this increase.

Competitive price reductions can result in increases in the sales of the party which reduced price. This occurs because the price of close substitutes has not fallen. On the other hand, general price declines are less likely to result in increases in sales as the price of close substitutes has also fallen and the commodity has only reduced price compared with less close substitutes. Thus, if for example, Colorado can reduce the price of its coal compared with Wyoming coal, which is a close substitute in Colorado, Colorado coal may be able to increase its sales at the expense of Wyoming coal. On the other hand, if the price of all western coal is reduced, any increases in sales are: (1) Less likely, as they must come at the expense of less comparable commodities, such as eastern coal, or oil, and (2) more diffuse, as all western coal will share in the newly enlarged market—to the extent there is any measurable enlargement. Thus, MMS believes that the effect of changes in Federal royalty valuation policy was less likely to have an effect on Colorado coal production than changes in rules which decreased the gross price only of Colorado coal.

With this information on hand as well as MMS's own study, MMS concludes that reduced royalty costs would not substantially increase production and thereby increase royalty receipts. In addition, MMS believes that the degree to which the reduced royalty costs might affect production would be too small to overcome the impact that the January 13, 1989, rulemaking has had on royalty revenues. The MMS believes that other factors such as Clean Air Act legislation, overall economic activity, and costs and availablity of competing fuels appear to be more significant factors affecting coal production levels.

Reason 5: Commenters opposing the proposed rule stated that the costs of AML fees and Black Lung excise taxes, in particular, should be excluded from the royalty value of coal because they are unique taxes and fees and can be distinguished from other Government levies. One commenter pointed out that the January 13, 1989, final rulemaking:

> * * * recognized that Black Lung taxes and AML fees were unique to coal and that royalties on State taxes would improperly give the Federal Government a royalty share of those State taxes. It also recognized that States should not receive a royalty share of the Federal taxes and fees, or an additional royalty share, derived from their own State severance taxes.

Commenters favoring the proposed rule disagreed, finding that production taxes and fees are a cost of doing business and cannot be distinguished from other similar costs of doing business like FICA taxes. They represented that value for royalty purposes should recognize all costs of extracting nonrenewable resources without allowing deductions for arbitrarily chosen taxes and fees.

MMS Response: Coal is by no means the only mineral subject to unique taxes. For example, lessees engaged in oil and gas exploration, development and production are required to contribute to the Fishermen's Contingency Fund under section 402 of the Outer Continental Shelf Lands Act Amendment of 1978 (OCSLA) (Pub. L. 95–372). Additionally, section 302 of the OCSLA establishes an Offshore Oil Pollution Compensation Fund and levies a fee on lessees not to exceed 3 cents per barrel of oil produced from the Outer Continental Shelf. From this larger background identifying other unique taxes and fees assessed on other minerals, and after reviewing the conditions under which the AML fee and Black Lung excise tax are levied, MMS believes there is no justification to exclude these particular taxes or fees from the royalty value. These taxes and fees, which are unique to coal, were imposed through the actions of the Congress which intended that industry contribute to funds designed to be spent to correct some of the health and environmental problems caused by the mining of coal. The MMS does not believe that royalty costs should be reduced to compensate for the Black Lung excise tax and AML fee which were imposed to cover the health and environmental costs created by coal mining.

In any event, as value is based upon the willingness of the purchaser to pay for the produced coal, value should include all components of that payment, whether unique to coal or not.

Reason 6: Commenters opposing the proposed rule maintained that there were no negative fiscal impacts and that royalty receipts actually increased by 7 percent compared to the period March through August 1988. These commenters also noted that production had increased by 17 percent, which, they argued, was due to the exclusions from royalty value permitted under the January 13, 1989, final rule. Other commenters argued that the MMS study period was not of sufficient duration, and that a longer period of study was necessary in order to fully evaluate the impact of the exclusions from royalty value.

Commenters from two coal producing States disagreed with those stating that there was no negative fiscal impact. One commenter stated:

> Federal royalty payments are an important source of revenue for our public school system in Montana, providing $20.7 million or 12 percent of total State aid to schools in State Fiscal Year 1989. According to the report on Fiscal and Production Impacts of the Exclusion prepared by MMS, the royalty exclusion for AML fees, Black Lung fees, and severance taxes cost Montana approximately $1.95 million in the first 6 months that it was in effect. Projected to an annual basis, Montana's public school system cannot afford the annual loss of $3.9 million.

Another commenter similarly stated:

> [A] significant amount of the royalty revenue loss, in excess of 50 percent, is a loss to education or education-related funds. The difference between what Wyoming receives under the current rule and * * * under the proposed rule—the rule that had been in effect before last year—is nearly $12 million per year. That represents a loss to Wyoming's public schools of nearly $6 million yearly, or more than $60 for every public school student in Wyoming.

MMS Response: As part of the Department's study of the effects of the exclusions from royalty value, MMS reviewed the fiscal and production impacts resulting from the rule. The study found that royalty revenues did increase by over 8 percent compared to the same 6-month period of the previous year. The two most significant factors contributing to that rise in royalty revenue were increased production and higher reported sales values. Had these events not occurred, an absolute decline of revenues, when compared to the previous period, would have occurred. However, it is also a fact that royalties would have been higher had the exclusions not been permitted.

On the issue of study duration and the effect of the exclusions from value on production, MMS recognizes that the 6 months of data available did not allow for clearly established conclusions on

production impacts. However, the analyses were able to show the relative magnitude of the impacts on costs and prices, and discuss the market mechanisms by which such impacts could affect production. As there was a trend of increasing Federal coal production during a period of increasing royalty rates by readjustment, and 1989 production was consistent with that trend, it was not possible to find a separate effect of the exclusions on coal production. Furthermore, in the future, other factors which influence the demand for coal will have a far greater impact on production, including amendments to the Clean Air Act, changes in the general level of economic activity, and changes in the availability and relative prices of competing fuels. This would likely make any future study even more complex and problematic.

Reason 7: Commenters opposing the proposed rule stated that production taxes and fees add to the cost of coal but do not add to its value. One commenter clarified this rationale, stating:

> I do not believe that tax, in any form—a fee, a tax, whatever it happens to be—in any form, is a question of value. It does increase the price. It does increase the cost, but it is not a part of value. Value is a totally different idea, and I * * * do not accept that price, itself, is equated to value.

Commenters favoring the proposed rule countered with the opinion that production taxes and fees are a cost of doing business and cannot be distinguished from other similar costs of doing business like social security taxes. One commenter further explained:

> The value of the coal is established by the compensation given and received under a coal supply contract. The compensation includes the base price for coal, contractor escalators and reimbursements for AML, Black Lung and state and local production taxes. Reimbursements for these fees and taxes clearly add value to the coal for the producer because they result in a guaranteed cash flow and protect the base coal price and all escalators from out of pocket costs for those taxes and royalties.

MMS Response: In the preamble to the January 13, 1989, final rule, MMS discussed at length the underlying premise of valuation in a free and open market economy such as that in the United States. (See 54 FR 1493.) The meaning of value has been at the heart of the debate that has persisted for years on coal royalty valuation. For royalty valuation purposes, for coal and other leasable minerals, the Department has historically placed principal reliance on the marketability of the product, allowing buyers and sellers to forge a value within the bounds of the economic realm of supply and demand forces. Market-based valuation is a universally accepted point of determining value. It is neither intrinsic nor subjective but, instead, is an economic event measurable by the price paid for the product, including all consideration passing between buyer and seller. This characteristic of market-based valuation is critical, because it describes the necessity to account for all monies paid for the purchase of coal, not just those price components arbitrarily deemed by the buyer or seller to represent value. In other words, the true measure of value, and its meaning as used by the Department in royalty valuation, is the price that willing coal purchasers agree to give to willing coal producers, in arm's-length transactions, for the acquisition of coal.

Reason 8: Commenters opposing the proposed rule suggested that this rule would add to the cost of low-sulfur coal and therefore conflict with the Administration's environmental goals. One commenter stated:

> * * * we expect Congress will enact acid rain legislation this year which will mandate reduction of sulfur dioxide emissions from coal-fired generating plants * * *. As more utilities * * * convert from high-sulfur to low-sulfur coal mined in Western States, demand will increase the market price. The MMS's proposed regulations would defy emerging national environmental goals by increasing the cost of low-sulfur coal even higher than the natural market forces which will develop. The consumer will bear the consequences of such a policy decision.

Another commenter stated:

> * * * [i]n implementing Federal Acid Rain Legislation other utilities will also fuel switch to comply. We find it especially distressing to see a Federal agency increase the cost of utilizing low sulfur western coal at the same time President Bush is expressing concern that the proposed Clean Air Act revisions are too expensive. This inconsistency in Federal policy actions is disturbing.

Commenters favoring the proposed rule countered with the argument that the concept of the rule raising western coal prices was a fallacy. The rule merely adjusts coal royalty so that it is restored to the level that existed before the January 13, 1989, rulemaking, commensurate with the level required by a uniform definition of royalty value, which favors no leasable mineral over another.

MMS Response: Federal policies and laws must deal with many, sometimes conflicting, goals and balance those conflicting goals as best they can. A rise in coal prices itself does not constitute a valid reason for abandoning long-standing valuation principles. The MMS believes that the private sector is the most appropriate economic agent for establishing the value of coal production. As a general rule, governmental tampering with markets has historically not been as successful in adjusting prices as the adjustments made by free-market forces. Hence, in deference to the market concept, MMS accepts the principle that the most effective and efficient value-setting mechanism is the value set by competition in the free market.

Reason 9: Commenters opposing the proposed rule argued that the January 13, 1989, final rule was the result of a long rulemaking process resulting in a compromise in which both of the opposing camps did not receive everything they wanted. These commenters stated that the January 13, 1989, rule was acceptable and should remain in place.

Commenters favoring the proposed rule did not view the January 13, 1989, final rule as a compromise. To them, the January 13, 1989, final rule was a step to lower royalties and the cost of coal. Several State recipients of Federal coal royalties did not believe that they received anything in return for decreasing royalties, since the January 13, 1989, rulemaking, by and large, otherwise clarified and continued prior policy.

MMS Response: The MMS does not consider the January 13, 1989, final rule to represent a compromise in the sense that valuation principles were exchanged in return for acceptance of the entire rulemaking package. The January 13, 1989, final rule represented the outcome of lengthy consensus building on many issues involving coal product valuation. In the time period since the January 13, 1989, final rule, MMS has received many comments and conducted a study of the effects of that rule. The MMS found that the principal effect of the January 13, 1989, final rules was to transfer more than $32 million from Federal, State, and tribal treasuries to the producers of coal and electricity and the consumers of electricity. Consequently, MMS now concludes that it would like to retain longstanding mineral valuation principles.

Reason 10: Several commenters stated that this rule ignores previous policy recommendations on royalties by the 1984 Commission on Fair Market Value Policy for Federal Coal Leasing (Linowes Commission) and the Congressional Research Service (CRS) Report for Congress, 88-0250E.

MMS Response: There was only one recommendation by the Linowes Commission concerning royalty valuation policy. The Linowes

Commission concluded that the base for calculating Federal royalty payments should be the FOB price minus all State and local severance and similar taxes.

The Commission concluded that the Federal royalty should be based on the value of the coal being produced, not on State and local taxes as well. Federal royalty policies should not create an incentive for higher State and local severance taxes—or similar production-based taxes—by increasing the effective total return to a given percentage tax. State and local Governments should bear the direct responsibility for the full financial impact of their severance taxes. (See February 1984 Report of Linowes Commission, "Fair Market Value Policy for Federal Coal Leasing," at page 321.)

In 1984, the Department responded to the Linowes Commission report. In the "Review of Federal Coal Leasing," at pages 38 and 39, the Department responded to the recommendation as follows:

The Commission concluded that the base for calculating Federal royalty payments should be the F.O.B. price minus all State and local severance and similar taxes. Under the terms of most Federal and Indian mineral leases, the Department computes its royalty based on the "value" of the minerals produced. This "value" is the gross proceeds from the sale of the produced minerals, including all valuable consideration received by the lessee such as any fees and taxes which, under the terms of the sales agreement, the buyer reimburses the lessee or pays on behalf of the lessee.

This method of royalty computation is not limited to Federal coal production or to severance taxes, but extends to other Federal minerals, such as oil and gas, to other reimbursed costs such as reclamation fees and royalty payments, and to Indian minerals. Elimination of reimbursed taxes from coal value alone would create inconsistent practice with regard to other minerals and to other reimbursed costs.

In the view of the Commission, inclusion of State and local severance and similar taxes in the value of Federal coal for royalty purposes results is an inappropriate "hidden" tax on the production. The Commission believed the elimination of these taxes from the royalty valuation process will distinguish the impact of State taxes from Federal royalties on the ultimate cost of coal. Thus, each governmental entity will then be clearly responsible for its policies on revenue collection.

However, elimination of any or all reimbursed costs may create a situation of collecting royalty on less than the "value" of the production as required by the Mineral Lands Leasing Act, as amended. The Department has taken the legal position in the past that royalty on Federal leases is owed to the United States as lessor and only after the royalty is paid is the revenue distributed according to the statutory formula. Accordingly, the Department believes this issue must be addressed by Congress after a study of its effects on other programs and on State and local Governments.

The MMS believes that the above response is still appropriate.

In the CRS report's summary and conclusions, CRS concluded that Black Lung excise taxes, AML fees, and severance taxes imposed on the production of coal should be deducted from the arm's length sales price in determining the base for calculating the royalty payment.

The CRS report attempted to determine the appropriate royalty, or economic rent, that the lessee should pay so neither the government was discouraged from leasing coal because the royalty paid was too low, nor coal production was inhibited because the royalty was too high. The CRS report, therefore, looked at the "royalty" issue as a whole and did not separately consider value issues and royalty rate issues. Therefore, the conclusions in the CRS study are not directly transferable to the considerations in this rulemaking.

Reason 11: Commenters opposing this rule claimed that, in fairness, if the January 13, 1989, rule is being reconsidered, other issues within the scope of that rule such as the gross proceeds concept and contract submission should also be reconsidered. One commenter stated:

[W]e must ask the Department, and MMS, why, despite our repeated requests, have you refused to open this rulemaking [sic] to allow submission by the industry, and consideration by the Government, of these other issues? Why are we being penalized, merely because we bit our tongue when the March 1, 1989, regulations were promulgated, and decided to accept the bitter with the sweet.

Does not absolute, and basic, fairness, equity and good Government policy mandate that if you are going to reopen these rules, partially, for reconsideration, you should do a full re-opening, in order to allow consideration of all the inter-related portions of the rules.

MMS Response: The MMS decided to revisit the production tax and fee exclusion from value issue because the January 13, 1989, final rule as viewed by many affected parties departed from the traditional view of the Department that value is, at a minimum, equal to gross proceeds, or the total consideration received for production of the Federal resource. The Department had completed a long rulemaking, culminating in the January 13, 1989, rule, and did not believe the other parts of the rule needed to be revisited.

III. Conclusion

As explained above, the question of whether production taxes and fees are part of the value of production is not a new issue. It was given considerable attention during the process leading to the January 1989 rules. At that time, MMS concluded that coal is distinguishable from other minerals for purposes of Federal royalty valuation policy, and that production taxes and fees could be excluded from value for royalty purposes.

However, as a result of the record in this rulemaking, including MMS's study of the effects of the January 1989 rules, MMS has now determined that production taxes and fees should not be excluded from royalty value. Therefore, MMS is adopting the proposed rule to remove the exclusion from value for production taxes and fees applicable to Federal coal leases.

There are many reasons why MMS has chosen this course. First, as explained above, the valuation principle that MMS has relied upon consistently in developing its product valuation regulations for oil, gas and coal, is that value is best determined in the market, reflected by the total proceeds accruing to the seller for the sale of production under an arm's-length contract. See 30 CFR 206.257(b)(1), 206.102(b)(1)(i), 206.152(b)(1)(i), and 206.153(b)(1)(i). The definition of "gross proceeds" in the coal valuation regulations at § 206.251 always has been defined as including all consideration accruing to the lessee, including reimbursement for production taxes and fees. Therefore, the exclusion that was adopted in § 206.257(b)(5) was an aberration from the fundamental standard that the value of production cannot be less than gross proceeds. While MMS recognizes that coal is different from oil and gas, and that coal is marketed differently, it nonetheless does not change the fundamental economic notion that the minimum "value" of the coal resource owned by the people of the United States is what the purchaser actually paid for that coal.

The MMS also relied in the 1989 rules upon the prospect that as a consequence of reducing the royalty obligation on Federal coal, production might be stimulated and total production and royalty payments would increase. From MMS's study, however, it cannot be concluded that the royalty reduction had this effect. While production and royalties did in fact increase, those increases were in line with previous year's growth before the royalty reduction was adopted. While Colorado coal production was particularly enhanced, it is more likely the result of the incentives granted by the State of Colorado which were worth 4 to 5 times the amount of the Federal royalty

exclusion. Therefore, from the MMS study the only clear result that emerged is that Federal royalty collections for the first year after the 1989 rules were effective were $32.2 million less than they would have been had the exclusion not been a part of those rules. Under 30 U.S.C. 192, half of the revenues would have gone directly to the coal producing States, thus the States particularly have suffered revenue shortfalls greater than anticipated. This dollar impact far exceeded MMS's expectations when it adopted the exclusion.

As part of its rationale for adopting the exclusion from value for production taxes and fees, MMS also expected in 1989 that the exclusions would not affect Indian leases. (See 54 FR 1511.) The MMS wanted the rule to be revenue neutral for Indians, and in the preamble to the 1988 proposed rule, MMS asked for comment on this issue as it related to existing Indian coal leases (there are less than 10 producing Indian coal leases):

> The MMS specifically would like comment whether the proposed exclusion language will be sufficient to ensure that the exception provided by paragraph (b)(5) will not be applicable to existing Indian leases. (See 53 FR 26942.)

However, after the exclusions became effective, the lessees of Indian leases accounting for a majority of Indian lease production claimed that the exclusions would in fact be applicable to their Indian lease production. Their claim is premised on lease terms which they maintain base royalty value on the regulations applicable to Federal leases, including the exclusion for production taxes and fees. While MMS's Royalty Management Program has disputed the Indian lessees' interpretation of the lease terms and regulations, the matter is on administrative appeal and is unsettled. If the lessees are correct in their interpretation, then one of MMS's assumptions in the 1989 rule is invalid. Since this issue has a potential impact on the Indian lessors of several millions of dollars per year, MMS believes that it is more prudent to eliminate the Federal lease exclusion and thereby end the dispute rather than let it continue through several more years of administrative and judicial litigation.

In calling for comments in the Notice of Proposed Rulemaking, MMS specifically requested information which might tend to show that the rule had resulted in increased production. No party came forward with persuasive evidence that the January 13, 1989, rule accomplished anything other than transferring over $32 million annually from Federal and State treasuries to the producers and consumers of coal and electricity. In addition, in the Notice of Proposed Rulemaking and at every public hearing, all commenters were asked for some alternative market based valuation principle which would imply that production fees and taxes should be excluded. None was suggested.

Thus, as the Department has traditionally used market based criteria for defining value, and for the additional reasons for using market based criteria enunciated in the January 13, 1989, rule, MMS believes that it should return to the historic basis of valuing production to be at least equal to the gross proceeds accruing to the lessee in payments for the produced coal.

IV. Procedural Matters

Executive Order 12291

The Department has hereby determined that this document is not a major rule and does not require analysis under Executive Order 12291. This rulemaking is to modify the Department's definition of the value of coal for royalty purposes under the coal product valuation regulations that were issued on January 13, 1989.

Executive Order 12630

Because this rule will not affect the use of or the value of private property, the Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

Regulatory Flexibility Act

Because this rule simplifies existing regulations, administrative requirements regarding royalty reporting would be reduced for small business entities as a result of implementation of this rule. Therefore, the Department has determined that this rulemaking will not have a significant economic effect on any small business entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*).

Paperwork Reduction Act of 1980

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010–0074.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 206

Coal, Continental Shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: August 23, 1990.

James M. Hughes,

Deputy Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 206 is amended as follows:

PART 206—PRODUCT VALUATION

1. The authority citation for part 206 is revised to read as follows:

Authority: 5 U.S.C. 301 et seq.; 25 U.S.C. 396 et seq.; 25 U.S.C. 396a et seq.; 25 U.S.C. 2101 et seq.; 30 U.S.C. 181 et seq.; 30 U.S.C. 351 et seq.; 30 U.S.C. 1001 et seq.; 30 U.S.C. 1701 et seq.; 31 U.S.C. 9701; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801 et seq.

§ 206.251 [Amended]

2. Section 206.251 under Subpart F—Coal, is amended to remove the definition of "Severance tax."

3. Section 206.257 under Subpart F—Coal, is amended to remove the existing paragraph (b)(5) and to redesignate paragraph (b)(6) as a new paragraph (b)(5). Newly redesignated paragraph (b)(5) and paragraphs (b)(1), (c)(3) and (g) are revised to read as follows:

§ 206.257 Valuation standards for ad valorem leases.

* * * * *

(b)(1) The value of coal that is sold pursuant to an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(2), (b)(3), and (b)(5) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value which the lessee reports, for royalty purposes, is subject to monitoring, review, and audit.

* * * * *

(5) The value of production for royalty purposes shall not include payments received by the lessee pursuant to a contract which the lessee demonstrates,

to MMS's satisfaction, were not part of the total consideration paid for the purchase of coal production.

(c) * * *

(3) When the value of coal is determined pursuant to paragraph (c)(2) of this section, that value determination shall be consistent with the provisions contained in paragraph (b)(5) of this section.

* * * * *

(g) Notwithstanding any other provisions of this section, under no circumstances shall the value for royalty purposes be less than the gross proceeds accruing to the lessee for the disposition of produced coal less applicable provisions of paragraph (b)(5) of this section and less applicable allowances determined pursuant to §§ 206.258 through 206.262 and § 206.265 of this subpart.

* * * * *

[FR Doc. 90-20523 Filed 8-29-90; 8:45 am]
BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400044B; FRL-3798-2]

Ozone Depleting Chemicals; Toxic Chemical Release Reporting; Community Right-To-Know; Addition of Chemicals; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, technical amendment.

SUMMARY: This notice corrects an error in a final rule published in the **Federal Register** of August 3, 1990, concerning a petition EPA received from three State Governors and the Natural Resources Defense Council to add seven ozone depleting chemicals to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986. The CAS number for the chemical substance bromochlorodifluoromethane (Halon 1211) was incorrectly listed. This document corrects that error.

EFFECTIVE DATE: This rule is effective August 30, 1990.

FOR FURTHER INFORMATION CONTACT: Robert J. Israel, Petitions Coordinator, Emergency Planning and Community Right-to-Know, Information Hotline, Environmental Protection Agency, Mail Stop OS-120, 401 M St., SW., Washington, DC 20460, Toll free: 800-535-0202, In Washington, DC and Alaska, 202-479-2449.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 3, 1990 (55 FR 31594), EPA issued a final rule which added seven ozone depleting chemicals to the section 313 list of chemicals and chemical categories. The CAS number for the chemical bromochlorodifluoromethane (Halon 1211) was incorrectly listed as "421-01-2" in the preamble on page 31594, second column, second line from the bottom and in the tables under § 372.65. The correct CAS number is 353-59-3.

Dated: August 22, 1990.

Charles L. Elkins,

Director, Office of Toxic Substances.

Therefore, 40 CFR part 372 is amended as follows:

1. The authority citation for part 372 continues to read as follows:

PART 372—[AMENDED]

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. In § 372.65 by revising the entry for bromochlorodifluoromethane in paragraph (a) and revising the entry for 421-01-2 in paragraph (b) to read as follows:

§ 372.65 Chemicals and chemical categories to which the part applies.

(a) * * *

Chemical Name	CAS No.	Effective Date
* * *	*	*
Bromochlorodifluoromethane (Halon 1211)	353-59-3	7/8/90
* * *	*	*

(b) * * *

CAS No.	Chemical Name	Effective Date
* * *	*	*
353-59-3	Bromochlorodifluoromethane (Halon 1211).	7/8/90
* * *	*	*

[FR Doc. 90-20517 Filed 8-29-90; 8:45 am]
BILLING CODE 6560-50-F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 390

[FHWA Docket Nos. MC-114]

Federal Motor Carrier Safety Regulations; General; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to final rules.

SUMMARY: This document corrects an error in a technical amendment to the final rules that appeared in the **Federal Register** on May 19, 1988 (53 FR 18042) and October 30, 1987 (52 FR 41718). The technical amendment appeared in the **Federal Register** on Monday, August 13, 1990 (55 FR 32916). In the August 13, 1990 amendment the first correction amended the definitions of "private motor carrier of passengers" and "private motor carrier of property" in 49 CFR 390.5 to make them consistent with the definition of "motor private carrier" in the underlying statutory authority and to eliminate any misinterpretation of those definitions. Inadvertently, in the revision of the definition of "private motor carrier of property" the word "passengers" was substituted for the correct term "property". This amendment is intended to correct that oversight.

EFFECTIVE DATES: August 30, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Office of Motor Carrier Standards, (202) 366-2983, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e. t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Title 49, Code of Federal Regulations, § 390.5, Definitions, was amended by a final rule published in the **Federal Register** on May 19, 1988 (53 FR 18042, 18054). The rule included definitions of the terms "private motor carrier of passengers" and "private motor carrier of property." On August 13, 1990 both of these terms were redefined and the new definitions were published in the **Federal Register** (55 FR 32916). Inadvertently, the word "passengers" was included in the definition for "private motor carrier of property" rather than "property" as had been intended. This document corrects that error.

List of Subjects in 49 CFR Part 390

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety, Driver's hours of service, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 20.217, Motor Carrier Safety)

Issued on August 23, 1990.

Edward V. A. Kussy,

Acting Chief Counsel.

In view of the above, the FHWA is amending 49 CFR part 390 as follows:

PART 390—[AMENDED]

1. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. App. 2503 and 2505; 49 U.S.C. 3102 and 3104; 49 CFR 1.48.

2. Section 390.5 is amended by revising the definition of the term "private motor carrier of property" to read as follows:

§ 390.5 Definitions.

* * * * *

Private motor carrier of property means a person who provides transportation of property by motor vehicle, and is not a for-hire motor carrier.

* * * * *

[FR Doc. 90-20416 Filed 8-29-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 620, 650, and 652

[Docket No. 900539-0139]

Atlantic Surf Clam and Ocean Quahog, Atlantic Sea Scallop, and Blue Mussel Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule, extension of effective date.

SUMMARY: An emergency rule amending regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery (FMP) is in effect through August 23, 1990. The Secretary of Commerce (Secretary) extends this rule through November 21, 1990. This extension is necessary to continue the closure of a portion of the New England Area know as "Georges Bank," defined as the fishing grounds east of 69° W. longitude, to fishing for surf clams, ocean quahogs, and blue mussels. Only the shucked adductor muscle may be landed from sea scallops harvested from this area. This area is closed for an additional ninety day period because of the adverse environmental conditions which exist due to the continued high concentrations of paralytic shellfish poison (PSP) found to be present in surf clams from this area. These adverse environmental conditions preclude the harvest of healthful food products from this contaminated environment.

EFFECTIVE DATES: The effectiveness of §§ 620.7(i), 650.7(i), and 652.23(a)(4) is extended from August 23, 1990, through November 21, 1990.

FOR FURTHER INFORMATION CONTACT: John G. Terrill, NMFS, Northeast Region, NMFS, One Blackburn Drive, Gloucester, Massachusetts 01930-2298, telephone 508-281-9252.

SUPPLEMENTARY INFORMATION: Under the emergency action authority of section 305(e) of the Magnuson Fishery Conservation and Management Act, the Secretary issued an emergency interim rule, effective on May 25, 1990 (55 FR 22336, June 1, 1990), closing that portion of the New England Area located east of 69° W. longitude to fishing for surf clams, ocean quahogs, blue mussels, and other mollusks because of high concentrations of PSP found to be present in certain mollusks taken from this area. Ingestion of PSP toxin is known to cause severe illness or death in humans. The emergency interim rule further specified that sea scallops may not be landed in an unschucked form. The emergency interim rule stated that an extension of the closure, if warranted, was possible for an additional 90 days.

The U.S. Food and Drug Administration (FDA) has advised the NMFS that a PSP program still exists on Georges Bank and has recommended that this area remain closed to fishing for the species listed above. At their August 1990 meetings, the Mid-Atlantic and New England Fishery Management Councils reviewed the conditions warranting the emergency interim rule and its effects over the past 90 days, and recommended that the rule be extended for an additional emergency period (90 days). Therefore, the Secretary extends for 90 days the effective dates of this emergency interim rule under section 305(e)(3)(B) of the Magnuson Act.

The reasons for the extension of the emergency fishery closure action are the same as for the original action, and remain valid as determined by FDA's biological sampling from the Georges Bank Area. Testing of surf clams harvested in July determined PSP levels of between 1666 and 4396 micrograms/100 grams (μg/100g); ocean quahogs yields PSP levels of 537 μg/100g. The maximum safe level for PSP toxin is 80 μg/100g. Ingestion of PSP toxin is known to cause severe illness or death in humans. These recently determined PSP levels in surf clams and ocean quahogs represent a continuing severe adverse environmental condition which warrants the extended closure of the Georges Bank Area to fishing for surf clams, ocean quahogs, and blue mussels. During the extension of this closure, the Area will continue to be monitored for PSP levels, and if it is determined that safe PSP levels are present, the Area will be reopened to fishing prior to November 21, 1990.

Since promulgation of the emergency interim rule, NMFS has determined that two minor changes are required in the rule. First, the emergency interim rule prohibited the landing of unshucked sea scallops from the closed Area. Testing has determined that while shucked whole sea scallops, or parts of sea scallops, may contain concentrations of PSP toxin, the sea scallop adductor muscle continues to be safe. Consequently, this extension of the rule provides that only the sea scallop adductor muscle may be landed; §§ 650.7(i) and 620.7(i) are revised to reflect this change.

Secondly, the Georges Bank Area defined in § 652.2 of the regulations implementing the FMP is specific to surf clams only. The line at 69° W. longitude which determines this area, extends northward into Maine. Testing for PSP has been specific to products harvested from Georges Bank and not from more northern areas east of the line, except for testing done by the State of Maine. To clarify the actual intent of the emergency interim rule, a northern bounds of 42°20′ N. latitude is established by the regulatory text of this rule. If testing determines that PSP is found north of 42°20′ N. latitude, a closure will be considered.

Other Matters

The emergency rule is exempt from the normal review procedures of Exective Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Office of Management and Budget with an explanation of why following the procedures of that Order is not possible.

List of Subjects in 50 CFR Parts 620, 650, and 652

Fisheries, Reporting and recordkeeping requirements.

Dated: August 24, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 620, 650, and 652 are amended as follows:

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

1. The authority citation for part 620 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 620.7, a new paragraph (i) is added to read as follows:

§ 620.7 General Prohibitions.

* * * * *

(i) Fish for or land any mollusks from the Georges Bank Area, defined at 50 CFR 652.23(a)(4)(i), except that the adductor muscle of Atlantic sea scallops may be landed.

PART 650—ATLANTIC SEA SCALLOP FISHERY

1. The authority citation for part 650 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 650.7, a new paragraph (i) is added to read as follows:

§ 650.7 Prohibitions.

* * * * *

(i) Land unshucked Atlantic sea scallops, except for the adductor muscle only, from the Georges Bank area defined at 50 CFR 652.23(a)(4)(i).

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

1. The authority citation for part 652 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 652.23, paragraph (a)(4) is added to read as follows:

§ 652.23 Closed areas.

(a) * * *

(4) *Georges Bank Area.* That portion of the New England Area that is located east of 69° W. longitude and south of 42°20′ N. latitude.

* * * * *

[FR Doc. 90-20455 Filed 8-24-90; 5:10 pm]

BILLING CODE 3510-22-M

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50 CFR Part 674

[Docket No. 900790-0190]

High Seas Salmon Fishery Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce

ACTION: Notice of fishery reopening.

SUMMARY: NOAA issues this notice to reopen the U.S. Exclusive Economic Zone (EEZ) off the coast of Southeast Alaska to commercial fishing for all salmon for 2 days. Afterwards, most of the EEZ will remain open to commerical fishing for all salmon species but chinook. This action is necessary to allow fishermen more time to harvest the number of chinook salmon authorized by the Pacific Salmon Commission and is intended to fulfill U.S. international obligations under the Pacific Salmon Treaty.

DATES: This notice is effective at 0001 hours Alaska Daylight Time (ADT), Thursday, August 23, 1990. Public comments on this notice are invited through Saturday, September 22, 1990.

ADDRESSES: Send comments to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 021668, Juneau, Alaska 99802-1668. During the 30-day comment period, the data upon which this notice is based will be available for public inspection during business hours (0800 to 1630 ADT, Monday through Friday) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, Fisheries Management Division, NMFS) 907-586-7229.

SUPPLEMENTARY INFORMATION: Salmon fishing in the EEZ off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP). This FMP was developed and amended twice by the North Pacific Fishery Management Council (Council), and is implemented by NOAA through regulations promulgated at 50 CFR Part 674.

In May 1990, the Pacific Salmon Commission established the harvest quota for all salmon fisheries in Southeast Alaska at 302,000 chinook salmon from the base stocks (see 1990 season rule at 55 FR 29216; 18 July 1990). In June 1990, the Alaska Board of Fisheries (Board) allocated this number among the various groups of salmon fishermen. The Board set a 1989-1990 harvest guideline level of 260,000 chinook salmon (from the base stocks) for the troll fishery. After the winter and June experimental troll fisheries had ended, the Alaska Department of Fish and Game estimated that about 206,900 to 216,900 chinock (from the base stocks) remained for the summer troll fishery, (which began on July 1, 1990) see final rule implementing season measures at 55 FR 29216, July 18, 1990).

In addition to the chinook salmon harvest from the base stocks, the salmon fisheries were allowed to harvest as many chinook salmon produced by Alaska's salmon enhancement activities as they could. Those salmon are excluded from the harvest ceiling set by the Pacific Salmon Commission.

On July 23, 1990, the Secretary of Commerce stopped the summer troll harvest of chinook salmon in the EEZ and closed the Fairweather Grounds to all salmon trolling because the troll fishery had apparently harvested its 1989-1990 allocation of chinook salmon (see 55 FR 30717, July 27, 1990). The Secertary noted the troll fishery might be reopened for chinook salmon if the tabulation of actual harvest shows that it was considerably less than the guideline harvest level.

In addition, in conjunction with a similar action by the State of Alaska in State waters, NOAA, closed the EEZ off Alaska for 10 days beginning at 0001 hours, Monday, August 13, 1990, to all commercial salmon fishing to protect coho salmon (55 FR 33721, August 17, 1990).

In July 1990, the Alaska Department of Fish and Game recalculated the probable harvests of chinook salmon from Alaska's supplemental enhancement activities. Further, it adjusted the allocation of the base stocks between the commercial troll and the sport fishery. The projections for the 1989-1990 allowable harvests became 277,000 chinook salmon for the commercial troll fishery (258,300 from the base stocks, and 19,600 from the supplemental hatchery production); 23,000 for the net fisheries (20,000 base plus 3,000 supplemental); 28,000 for the sport fishery (23,700 base plus 4,300 supplemental) for a total chinook salmon harvest of 328,900 (302,000 base plus 26,900 supplemental).

Now, the Alaska Department of Fish and Game has completed its tally of the troll chinook harvest through July 22 and has further evaluated the contribution of Alaska hatchery chinook salmon to the harvest. Better than expected returns of chinook salmon from Alaskan hatcheries and additional carryover of chinook salmon from the 1988-1989 season increased the total number of chinook salmon available for trool harvest from 277,900 to 286,500. The total number of chinook salmon harvested during the 1989-1990 troll season, as of August 17, 1990, is 269,900, including 195,200 during the summer season (July 1-22). Thus, 16,600 chinook

salmon remain available for harvest this season.

At an expected harvest rate of about 8,000 chinook salmon per fleet day, the troll fishery should be able to harvest the remainder of its allocation in 2 days. Any chinook salmon not harvested this year will be carried over for harvest in the 1990–1991 season.

Accordingly, when the troll fishery reopens on August 23, after the 10-day closure, NOAA and the Alaska Department of Fish and Game will allow trollers to retain any legal sized chinook salmon they catch during the first 2 days of the fishery.

The same areas open at the start of the summer season will be open during this 2-day chinook opening; these areas include the Outer Fairweather Grounds. When the chinook fishery closes on August 24, the areas of high chinook salmon abundance closed in Federal and State waters between July 23 and August 12 (55 FR 30717, July 27, 1990) will again close to trolling for all salmon species.

Following the closure of the chinook retention period, fishing for other salmon species is prohibited while chinook salmon are on board (50 CFR 672.22 (c)).

Regulations implementing the FMP (see 50 CFR 674.23(a)) provide that the Secretary of Commerce (Secretary) may modify the fishing times and areas whenever he determines that the condition of any salmon species in any part of the management area is substantially different from the condition anticipated in the plan. In making such a determination, he may consider the following factors:

(1) The effect of overall fishing effort within any part of the management area;

(2) The catch per unit of effort and the rate of harvest;

(3) The relative abundance of salmon stocks within the management area;

(4) The condition of salmon stocks throughout their ranges;

(5) Any other factors relevant to the conservation of salmon.

Having reviewed the evidence of the 1990 harvest of chinook salmon, the Secretary has determined that the effect of overall fishing effort in the EEZ, the harvest to date, the harvest per unit of effort, and other indices of the apparent relative abundance of chinook salmon within the EEZ portion of the management area indicate that the condition of chinook stocks is substantially different from the condition anticipated in the fishery management plan. He has also found that this difference reasonably requires a modification of time and area limitations if chinook salmon stocks are to be conserved and managed properly. Therefore, the Secretary is implementing this 2-day reopening of the chinook fishery prescribed by this action.

The reopening will become effective after this notice has been filed for public inspection with the Office of the Federal Register and the chinook fishery reopening has been publicized for 48 hours through procedures of the Alaska Department of Fisheries.

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that the chinook salmon harvest in Southeast Alaska will fall short of the limit established by the Pacific Salmon Commission unless this notice takes effect promptly. He finds, therefore, that it would be impracticable and contrary to the public interest to provide advance notice and a prior opportunity for public comment or to delay for 30 days the effective date of this notice under the provisions of 5 U.S.C. 554(b) and (d). However, 50 CFR 674.23(b)(3) requires the Secretary to accept and consider public comments for 30 days after the effective date of notices like this one, which did not provide an opportunity for the public to comment before it became effective. The aggregated data upon which this closure are based are available for public inspection at the address given above.

This action is authorized by 50 CFR part 674 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 674

Fisheries, Fishing, International organizations, Reporting and Recordkeeping requirements.

Authority: 16 U.S.C. 3631 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: August 24, 1990.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–20426 Filed 8–24–90; 4:26 pm]

BILLING CODE 3510-22-M

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50 CFR Part 675

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition of retention of groundfish.

SUMMARY: NOAA prohibits further retention of Greenland turbot by U.S. vessels in domestic annual processing (DAP) operations in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to prevent the total allowable catch (TAC) for Greenland turbot in the BSAI from being exceeded before the end of the fishing year. The intent of this action is to assure optimum use of groundfish while conserving Greenland turbot stocks.

EFFECTIVE DATES: Noon, Alaska local time (A.l.t.), August 24, 1990, through midnight, A.l.t. December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council and was implemented by regulations appearing at 50 CFR 611.93 and part 675.

Under § 675.20(a)(9), when the Regional Director determines that the TAC of any target species or the "other species" category has been achieved before the end of a fishing year, the Secretary of Commerce (Secretary) will publish a notice requiring that target species or the "other" species to be treated in the same manner as prohibited species, as described in § 675.20(c), for the remainder of the fishing year.

The initial 1990 TAC specification for Greenland turbot was set at 7,000 metric tons (mt). Pursuant to § 675.20(a) (2), 5,950 mt of the initial TAX was apportioned as DAP catch allowance (55 FR 1434, January 16, 1990). Under § 675.20(a) (8), the Greenland turbot directed fishery was closed on April 12, 1990 (55 FR 14094, April 16, 1990) to provide adequate bycatch of Greenland turbot for other directed groundfish fisheries.

On August 3, 1990, it was determined that fishermen in DAP operations would need amounts of the reserve. Therefore, under § 675.20(b) (1) (i), the Secretary apportioned 1,050 mt of the reserve to DAP for Greenland turbot (55 FR 32421, August 9, 1990) and rescinded the previously issued notice of closure, thereby allowing directed fishing for Greenland turbot in the BSAI by vessels in DAP operations.

The Regional Director has determined that the TAC of Greenland turbot in the BSAI has been reached. Therefore, under § 675.20(a) (9) and (c), the

Secretary is issuing this notice requiring that (1) Greenland turbot must be treated in the same manner as prohibited species and (2) prohibiting retention of Greenland turbot by DAP vessels in the BSAI from noon, A.l.t., August 24, 1990, through midnight, A.l.t., December 31, 1990.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice.

This action, taken under § 675.20(a)(9) and (c), is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated August 24, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Services.

[FR Doc. 90-20427 Filed 8-24-90; 4:26 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 169
Thursday, August 30, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 166

[Docket No. 90P-0025]

Margarine; Standard of Identity To Permit Use of Any Form of Marine Oil Affirmed as GRAS or Approved as a Food Additive for This Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: Food and Drug Administration (FDA) is proposing to amend the U.S. standard of identity for margarine to permit the use of "any form of marine oil that has been affirmed as generally recognized as safe (GRAS) or approved as a food additive for this use." This action is in response to a petition submitted by the National Fish Meal and Oil Association. FDA believes the proposed amendment would provide increased flexibility to manufacturers in the selection of lipid ingredients in margarine and would promote honesty and fair dealing in the interest of consumers.

DATES: Comments by October 29, 1990. The agency proposes that any final rule that may be issued based upon this proposal shall become effective by October 29, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: The National Fish Meal and Oil Association (NFMOA), 2000 M Street NW., suite 580, Washington, DC 20036, submitted a petition dated January 5, 1990, requesting that FDA amend the U.S. standard of identity for margarine (21 CFR 166.110) to permit the use of any "safe and suitable form of menhaden oil" as an additional optional edible fat and/or oil for inclusion in standardized margarine. NFMOA is a trade association representing U.S. fish meal and oil producers. The grounds given by NFMOA in support of its petition are as follows:

I. Statement of Grounds

Menhaden are small, oily fish of the genus *Brevoortia*, primarily *B. tyrannus* and *B. patronus*, which range in the U.S. coastal and estuarine waters of the Atlantic Ocean and the Gulf of Mexico. Menhaden constitute the largest-volume fishery in the United States and provide a significant source of edible oil.

On September 15, 1989 (54 FR 38219), FDA affirmed that the use in food of partially hydrogenated menhaden oil and hydrogenated menhaden oil as edible fats or oils, as defined in § 170.3(n)(12) (21 CFR 170.3(n)(12)), at levels not to exceed current good manufacturing practice, is GRAS. The food category "fats and oils" is defined in § 170.3(n)(12) to include such foods as margarine, dressings for salads, butter, salad oils, shortenings, and cooking oils. Thus, in its petition, NFMOA contended that FDA's GRAS affirmation clearly anticipates, by reference to § 170.3(n)(12), that one of the most useful potential applications of partially hydrogenated and hydrogenated menhaden oils would be in margarine.

In its petition, NFMOA contended that authorization for the use of partially hydrogenated and hydrogenated menhaden oils in margarine also would have the advantage of providing competitive lipid ingredients for use by margarine manufacturers, which should help to control costs of raw materials and, thereby, the costs of finished products for consumers.

II. The Proposal

The U.S. standard of identity for margarine (21 CFR 166.110) provides for the use of edible fats and/or oils, or mixtures of these, whose origin is vegetable or rendered animal carcass fats (21 CFR 166.110(a)(1)). FDA defined "animal fats" as the fat or oil, or stearin derived therefrom, of cattle, sheep, swine, or goats, or any combination of two or more of such articles in the **Federal Register** of December 20, 1955 (20 FR 9615). Section 166.110 does not provide for the use of marine oils.

NFMOA has requested that § 166.110 be amended to provide for the use of "any safe and suitable form of menhaden oil" and that the description of the requested new ingredient not be limited to partially hydrogenated and hydrogenated menhaden oils. In anticipation of further GRAS approval of other forms of menhaden oil, such as refined (liquid) menhaden oil for general use in food, NFMOA requests that § 166.110 be amended to provide for "any safe and suitable form of menhaden oil" so that further amendments of the standard would not be necessary if other forms of the oil receive GRAS affirmation in the future.

NFMOA anticipates that partially hydrogenated and hydrogenated menhaden oils would not be used as the primary lipid ingredients in margarine but instead would be blended with other, more predominant oils. Current manufacturing capabilities make possible the production of partially hydrogenated and hydrogenated menhaden oils with appropriate flavor characteristic that would blend agreeably with other lipid ingredients in margarine.

As stated above, NFMOA requested that § 166.110 be amended to permit the use of "any safe and suitable form of menhaden oil." FDA presently is considering a petition to affirm as GRAS the use of refined (liquid) menhaden oil in food. FDA, however, has questions regarding the safety of such use. FDA can anticipate the use of forms of menhaden oil that have not been affirmed as GRAS, and not otherwise determine to be safe, by FDA. In order to assure that these forms of menhaden oil are not added to margarine until FDA has determined that they are safe for this use, FDA is proposing to amend the standard of identity of margarine to permit only the use of any menhaden oil that has been affirmed as GRAS or approved as a food additive for this use.

Along with its petition, NFMOA submitted several references which included information on not only menhaden oil but also other marine oils such as anchovy, herring, pilchard, capelin, sardine, sprat, blue whiting, sandeel, and Norway pout. Presently, no form of these other oils has been

affirmed as GRAS or approved as a food additive for use in margarine. FDA believes that the standard of identity for margarine (§ 166.110) should be amended to provide for the use of any marine oil that has been affirmed as GRAS or approved as a food additive for use in margarine so that further amendments of the standard would not be necessary if other marine oils receive FDA approval.

Based on the petition, FDA tentatively concludes that amending the standard of identity for margarine (§ 166.110) to permit the use of any marine oil that has been affirmed as GRAS or approved as a food additive for use in margarine would provide increased flexibility to manufacturers in the selection of lipid ingredients in margarine and would promote honestly and fair dealing in the interest of consumers.

In support of its petition, NFMOA submitted the following references that further document the usefulness of partially hydrogenated menhaden oil in margarine.

III. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons betwen 9 a.m. and 4 p.m., Monday through Friday.

1. Bimbo, A. P., "Fish Oils as Foods: Challenges and Opportunities," presented at the American Association of Cereal Chemists Short Course on Fats and Oils in Bakery Products, 1989.
2. Bimbo, A. P., "Marine Oils-Perspectives on the U.S. Industry," presented at the American Institute of Baking Technical Seminar on Fish Oil and Other Unconventional Oils, 1987.
3. Young, F. V. K., "The Chemical and Physical Properties of Hydrogenated Fish Oils for Margarine and Shortening Manufacturers," *International Association of Fish Meal Manufacturers (IAFMM) Fish Oil Bulletin* No. 19, 1986.
4. Young, F. V. K., "The Usage of Hydrogenated Fish Oils in Margarines, Shortenings and Compound Fats," *International Association of Fish Meal Manufacturers (IAFMM) Fish Oil Bulletin* No. 20, 1986.

IV. Economic Impact

FDA, in accordance with the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 601), has reviewed this proposal to determine its impact on small entities, including small businesses. Amending the margarine standard to provide for the use of marine oils that has been affirmed as GRAS or approved as a food additive for use in margarine should provide a significant new market for the marine oils industry and thus would economically help the U.S. fishing industry. This proposed amendment will benefit margarine manufacturers by providing greater flexibility in their selection of ingredients that may be used in domestic margarine. FDA has concluded that this action will not result in a significant economic impact on a substantial number of small entities. FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this proposed action.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(b) (1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Comments

Interested persons may, on or before October 29, 1990, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 166

Food grades and standards, Food labeling, Margarine.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, FDA proposes that 21 CFR part 166 be amended as follows:

PART 166—MARGARINE

1. The authority citation for 21 CFR part 166 continues to read as follows:

Authority: Secs. 201, 401, 407, 409, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 347, 348, 371, 376).

2. Section 166.110 is amended by revising paragraph (a)(1) to read as follows:

§ 166.110 Margarine.

(a) * * *

(1) Edible fats and/or oils, or mixtures of these, whose origin is vegetable or rendered animal carcass fats, or any form of marine oil that has been affirmed as GRAS or approved as a food additive for this use, any or all of which may have been subjected to an accepted process of physico-chemical modification. They may contain small amounts of other lipids such as phosphatides, or unsaponifiable constituents, and of free fatty acids naturally present in the fat or oil.

* * * * *

Dated: August 13, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-20522 Filed 8-29-90; 8:45 am]

BILLING CODE 4160-01-M

Notices

Federal Register
Vol. 55, No. 169
Thursday, August 30, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Agency Information Collection Activities Under OMB Review

AGENCY: ACTION.

ACTION: Information collection submitted to the Office of Management and Budget for review.

SUMMARY: The following form(s) have been submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.A. chapter 35). This entry is not subject to 44 U.S.C. 3504 (h). Copies of the submission (s) may be obtained from the ACTION Clearance Officer.

DATES: OMB and ACTION will consider comments received by October 1, 1990. Send comments to both:

Janet Smith, Clearance Officer, ACTION, 1100 Vermont Ave., NW., Washington, DC 20525, Tel: (202) 634–9245.

and

Daniel Chenok, Desk Officer for ACTION, Office of Management & Budget, 3200 New Executive Office Bldg., Washington, DC 20503, Tel: (202) 395–7316.

Title of Form(s): Study of the Neighborhood-Based Drug Prevention Demonstration Project.

Need and Use: The information provided by this survey will be used to evaluate the effectiveness of the Neighborhood-Based Drug Abuse Prevention Demonstration Project.

Type of Request: New.

Respondent's Obligation to Reply: Voluntary.

Description of Respondents: Community-Based Volunteers.

Frequency of Collection: Nonrecurring.

Estimated Number of Annual Responses: 1200.

Average Burden Hours per Response: .25 hrs.

Dated: August 27, 1990.

Janet Smith,

Clearance Officer, ACTION.

[FR Doc. 90–20486 Filed 8–29–90; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 24, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the infomration; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Reinstatement

• *Animal & Plant Health Inspection Service*

Viruses-Serums-Toxins Regulations
APHIS 2001, 2003, 2005, 2007, 2008, 2008A, 2015 and 2020
Recordkeeping; On occasion
Businesses or other for-profit; Non-profit institutions; 24,825 responses; 60,787 hours; not applicable under 3504(h)
David A. Espeseth (301) 436–8245

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 90–20946 Filed 8–29–90; 8:45 am]

BILLING CODE 3410–01–M

Food Safety and Inspection Service

[Docket No. 90–016N]

National Advisory Committee on Meat and Poultry Inspection; Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Meat and Poultry Inspection will be held on Tuesday and Wednesday, September 18–19, 1990, in College Station, Texas, from 9 a.m. to 5 p.m., at the College Station Hilton and Conference Center, 801 University Drive East, College Station, Texas. The Committee provides advice and recommendations to the Secretary of Agriculture regarding certain issues pertaining to the meat and poultry inspection program, pursuant to sections 7(c), 24, 205, 301(a)(3), and 301(c) of the Federal Meat Inspection Act (21 U.S.C. 607(c), 624, 645, 661(a)(3) and 661(c) and sections 5(a)(3), 5(a)(4), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act (21 U.S.C. 454(a)(3), 454(a)(4), 454(c), 457(b), and 460(e)).

The September 1990 meeting will include a discussion of the following topics:

1. FSIS's Seven Areas of Emphasis;
2. Total Quality Management;
3. Hazard Analysis and Critical Control Points (HACCP);
4. Ham Netting;
5. Label Approval System;
6. Amenability;
7. 1991 Budget;
8. Canadian Pilot; and
9. Puerto Rico Study.

Notice is hereby given that the Committee consists of 12 members: Dr. David P. Anderson, University of Georgia, Athens, GA; Dr. Wesley B. Bonner, Veribest Cattle Feeders, Inc., Veribest, TX; Dr. Claude W. Carraway, Jr., North Carolina Department of Agriculture, Raleigh, NC; Dr. Forrest D. Dryden, George A. Hormel and Company, Austin, MN; Dr. Allan L. Forbes, Retired, Rockville, MD; Mr. Alex Grant, Food and Drug Administration, Rockville, MD; Mr. Mark Gustafson, U.S. Meat Exporters Federation, Denver, CO; Dr. Norman D. Heidelbaugh, Department of Veterinary Public Health, College Station, TX; Dr. Victor Herbert, Bronx Veterans Administration Medical Center, Bronx, NY; Mr. Stephen F. Krut, American Association of Meat Processors, Elizabethtown, PA; Dr.

James Marion, College of Agriculture, Auburn, AL; and Dr. Yvonne Vizzier-Thaxton, Marshall Durbin, Jackson, MS.

The meeting is open to the public on a space available basis. Comments of interested persons may be filed prior to or following the meeting and should be addressed to Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175 South Building, 14th and Independence Avenue, SW., Washington, DC 20250. Background materials are available for inspection by contacting Ms. DeRoever on (202) 447-9150.

Done at Washington, DC on August 24, 1990.

Lester M. Crawford,

Chairman, National Advisory Committee on Meat and Poultry Inspection.

[FR Doc. 90-20398 Filed 8-29-90; 8:45 am]

BILLING CODE 3410-DM-M

Soil Conservation Service

Goshen Swamp Watershed, North Carolina

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Goshen Swamp Watershed, Duplin, Sampson, and Wayne Countries, North Carolina.

FOR FURTHER INFORMATION CONTACT: Bobbye J. Jones, State Conservationist, Soil Conservation Service, 4405 Bland Road, Suite 205, Raleigh, North Carolina 27609; telephone 919-790-2888.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Bobbye J. Jones, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for addressing nonpoint source pollution. The planned work of improvement includes the development of nutrient management plans on 21,600 acres of cropland, erosion control plans on 5900 acres, animal waste management systems on 35 animal production facilities.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Babbye J. Jones.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(The activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: August 23, 1990.

Bobbye J. Jones,

State Conservationist.

[FR Doc. 90-20499 Filed 8-29-90; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket Nos. 0105-01, 0105-02, 0105-03, 0105-04]

Export Privileges, Actions Affecting Andrew Pietkiewicz, et al; Order

In the Matter of: Andrew Pietkiewicz formerly doing business as American Advanced Technologies, International Advanced Technologies, Aero Space Technologies, Inc.; Respondents

On July 27, 1990, the Administrative Law Judge entered his decision and order (Recommended Order) in the above-referenced matter. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record and based on the facts in this case, I hereby affirm the Decision and Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: August 17, 1990.

Dennis Kloske,

Under Secretary for Export Administration.

Appearance for Respondent: Andrew Pietkiewicz, c/o Geotech USA, 95 Fairmont Street, Fitchburg, MA 01420.

Appearance for Agency: Louis K. Rothberg, Attorney-Advisor, Office of Chief Counsel for Export Administration, U.S. Department of Commerce, room H-3839, 14th & Constitution Avenue, NW., Washington, DC 20230.

Preliminary Statement [1]

This proceeding against Respondent Andrew Pietkiewicz (Pietkiewicz), individually and doing business as American Advanced Technologies, International Advanced Technologies, and Aero Space Technologies, Inc., was initiated with the issuance of a charging letter on February 26, 1990, under the authority of the Export Administration Act of 1979 (50 U.S.C.A. app. 2401-2420), as amended (the Act), and the Export Administration Regulations (the Regulations).

In charges 1-18 it is alleged that on 18 separate occasions from on or about March 5, 1985 to on or about December 22, 1986, Respondent exported U.S.-origin computers and accessories from the United States to Hong Kong, Switzerland, France, United Kingdom, Israel, Australia, South Africa, Japan, and Austria without obtaining from the Department the validated export licenses required by §772.1(b) of the Regulations. It is asserted that Respondent violated §787.6 of the Regulations with respect to each of the specified shipments, for a total of 18 violations, each of which involves U.S.-origin commodities controlled under section 5 of the Act for national security reasons.

Respondent filed an answer to the charging letter, after which the Agency and the Respondent entered into a Consent Agreement to settle the matter. Pietkiewicz consented to pay a civil penalty of $25,000.

Order

I. A civil penalty in the amount of $25,000 is assessed against Respondent Pietkiewicz. Pietkiewicz shall pay $5,000 within the 30 days from the date of entry of this Order; four

[1] Pursuant to the Secretary's order *In the Matter of A.M.Y. Enterprises*, 54 FR 47801 (November 17, 1989) the Order here does not provide findings of facts, conclusions of law, nor findings of violation and *In the Matter of Bernardus Johannes Jozef Smit*, 54 FR 39027 (Sept. 22, 1989) where it was held: [N]either the Act nor the Regulations require [sic] that a finding of violation be made in order to impose sanctions under a consent agreement (54 FR at 39028).

additional installments of $5,000 each shall be paid on or before the following dates: June 30, 1990, September 30, 1990, December 31, 1990, and March 31, 1991. Payments shall be made in the manner specified in the attached instructions.

The Charging Letter and the Consent Agreement shall be available to the public.

II. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Dated: July 27, 1990.

Hugh J. Dolan,

Administration Law Judge.

[FR Doc. 90-20244 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-201-802]

Antidumping Duty Order: Gray Portland Cement and Clinker From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that gray portland cement and clinker from Mexico was being sold in the United States at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is being materially injured by reason of imports of gray portland cement and clinker from Mexico.

Therefore, based on these findings, all unliquidated entries or warehouse withdrawals of gray portland cement and clinker for consumption from Mexico made on or after April 12, 1990, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: August 30, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Brad Hess, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1769 or 377-3773 respectively.

SUPPLEMENTAL INFORMATION: The products covered by this investigation include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than that of being ground into finished cement.

Gray portland cement is currently classifiable under HTS item number 2523.29, and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as "other hydraulic cements". The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)), on July 10, 1990, the Department made its final determination that gray portland cement and clinker from Mexico is being sold at less than fair value (55 FR 29244, July 18, 1990). On August 23, 1990, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with section 736 of the Act (19 U.S.C. 1673e), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of gray portland cement and clinker from Mexico. These antidumping duties will be assessed on all unliquidated entries of gray portland cement and clinker from Mexico entered, or withdrawn from warehouse, for consumption on or after April 12, 1990, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (55 FR 13817).

On or after the date of publication of this notice in the Federal Register, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturer/producer/exporter	Margin percentage
CEMEX, S.A.	58.38%
Apasco, S.A. de C.V.	53.26%
Cementos Hidalgo, S.C.L.	3.69%
All Others	58.05%

The Department will instruct the U.S. Customs Service to reduce the dumping deposit by the amount of the countervailing duty deposit attributable to the export subsidies found in the most recent countervailing duty administrative review covering the subject merchandise. See Final Results of Countervailing Duty Administrative Review: Portland Hydraulic Cement and Cement Clinker from Mexico, 53 FR 18325 (1988)).

This notice constitutes an antidumping duty order with respect to gray portland cement and clinker from Mexico, pursuant to section 736(a) of the Act (19 U.S.C. 1673e(a)). Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act (19 U.S.C. 1673e(a)), 19 CFR 353.21.

Dated: August 27, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-20539 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-614-503]

Lamb Meat from New Zealand; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on lamb meat from New Zealand. We preliminarily determine the total bounty or grant to be 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, 0.47 percent *ad valorem* for Weddel Crown, 0.38 percent *ad valorem* for Lamb Gourmet and 2.74 percent *ad valorem* for all other firms during the period April 1, 1988 through March 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad*

valorem is *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: August 30, 1990.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1989, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (54 FR 37496) of the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). On September 15, 1989, the New Zealand Meat Producers Board requested an administrative review of the order. We initiated the review, covering the period April 1, 1988 through March 31, 1989, on October 25, 1989 (54 FR 43438). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act). The final results of the last administrative review were published on July 9, 1990 (55 FR 28077).

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved or processed, from New Zealand. During the review period, such merchandise was classifiable under item number 106.3000 of the *Tariff Schedules of the United States Annotated*. This merchandise is currently classifiable under item numbers 0204.10.0000, 0204.22.2000, 0204.23.20000, 0204.30.0000, 0204.42.2000 and 0204.43.2000 of the *Harmonized Tariff Schedule* (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period April 1, 1988 through March 31, 1989 and two programs.

Analysis of Programs

(1) Export Market Development Taxation Incentive (EMDTI)

Under the EMDTI, established in the 1979 Amendment to the Income Tax Act of 1976, exporters may receive tax credits for a certain percentage of their export market development expenditures. Qualifying expenditures include those incurred principally for seeking and developing new markets, retaining existing markets and obtaining market information. An exporter who takes advantage of this tax credit may not deduct the qualifying expenditures as ordinary business expenses in calculating taxable income. The tax credit for tax returns filed during the review period was 42 percent of the total qualifying expenditures, and the normal corporate tax rate in New Zealand was 28 percent. Because the program is limited to exporters, we preliminarily determine that it confers an export bounty or grant. Six exporters claimed EMDTI tax credits for lamb meat exports to the United States on their tax returns filed during the review period.

Since exporters may claim a tax credit equal to 42 percent of the qualifying expenditures but may not deduct these expenditures from income, which is taxable at 28 percent, the net benefit to the exporters is 14 percent of the qualifying expenditures. To calculate the benefit, we took 14 percent of each exporter's qualifying expenditures relating to lamb meat exports to the United States and allocated that amount over its total sales of lamb meat exports to the United States during the review period. We then weight-averaged the resulting benefits by each company's proportion of total lamb meat exports to the United States during the review period, excluding those companies with significantly different aggregate benefits. On this basis, we preliminarily determine the benefit from this program during the review period to be 15.87 percent *ad valorem* for Waitaki, 10.93 percent *ad valorem* for Richmond, 0.09 percent *ad valorem* for Weddel Crown, zero for Lamb Gourmet and 2.36 percent *ad valorem* for all other firms.

Effective with the government fiscal year beginning April 1, 1990, the Government of New Zealand eliminated the EMDTI tax credit, and all formerly eligible expenditures are subject to the rules for ordinary business expenses in calculating taxable income. Therefore, for purposes of cash deposits of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero for all firms.

(2) Livestock Incentive Scheme

The Livestock Incentive Scheme (LIS) was introduced in 1976 in order to encourage farmers to increase permanently their number of livestock. Under the scheme, a farmer engaged in a stock increase program, for a minimum of one and a maximum of three years, could opt for one of two incentives: (1) An interest-free suspensory loan of NZ$12 for each additional stock unit carried; or (2) a deduction of NZ$24 from taxable income for each additional stock unit carried. If the livestock increase was met, farmers who elected to take out loans wrote the loans off as tax-free grants. For farmers electing the tax option, the provisional tax deduction could be applied toward tax liability in any of the three years after completion of the development program. Applications to participate in the LIS program were accepted until March 31, 1982. No new loans have been given under this program since 1983, and no tax credits have been authorized since the 1983/84 government fiscal year.

Because benefits under this program are available only to farmers with livestock herds, we preliminarily determine that it is limited to a specific enterprise or industry, or group of enterprises or industries, and therefore confers a bounty or grant.

To calculate the benefit received from the loan option portion of the program, we treated the outstanding loan balances as one-year, interest-free loans and measured the benefit using as our benchmark the average interest rate on overdrafts during the review period. We treated the loan amounts forgiven as grants and allocated those benefits over five years, the average useful life of breeding stock. The discount rate chosen was the average interest rate on overdrafts during the year in which the loans were forgiven. During the 1988/89 government fiscal year, the remaining balance on outstanding loans was converted to grants. The benefit from the tax option was determined by multiplying the corporate tax rate by the amount of the tax deduction claimed during the review period. In this review period, lamb producers claimed the remaining portion of LIS tax credit benefits from the last government fiscal year in which they were authorized. We added the value of the benefits from the loan and tax portions of the program and multiplied the result by a factor determined to represent the value of lamb as a percentage of total livestock production. We then divided that result by the total value of lamb products sold during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.38 percent *ad valorem* for all firms.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant during the period April 1, 1988 through March 31, 1989 to be 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, 0.47 percent *ad valorem* for Weddel Crown, 0.38 percent *ad valorem* for Lamb Gourmet and 2.74 percent *ad valorem* for all other firms. In accordance with 19

CFR 355.7, any rate less than 0.50 percent is *de minimis* and is disregarded for purposes of this review.

Therefore, the Department intends to instruct the Customs Service to assess countervailing duties of 16.25 percent of the f.o.b. invoice price for Waitaki, 11.31 percent of the f.o.b. invoice price for Richmond, and 2.74 percent of the f.o.b. invoice price for all other firms, except Weddel Crown and Lamb Gourmet, on shipments exported on or after April 1, 1988 and on or before March 31, 1989. For Weddel Crown and Lamb Gourmet, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after April 1, 1988 and on or before March 31, 1989.

The termination of the EMDTI program reduces the total estimated bounty or grant of 0.38 percent *ad valorem*, a rate which is *de minimis*. Therefore, the Department intends to instruct the Customs Service not to collect cash deposits of estimated countervailing duties on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: August 22, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-20429 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the U.S. Surimi Commission ("USSC"), Application No. 90-00007. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Members (Within the Meaning of § 325.2(1) of the Regulations)

Aleutian Speedwell, Inc., American Seafood Company, Arctic Alaska Fisheries Corporation, Arctic Storm, Inc., Birting Fisheries, Inc., Glacier Fish Company Limited Partnership, Golden Age Fisheries, Oceantrawl Inc. and ProFish International, Inc.

Export Trade

1. *Product.* Surimi, a processed seafood product. See 55 FR 23257.

2. *Export trade facilitiation services (as they relate to the export of product).* Consulting; international market research; advertising; marketing; insurance; product research and design; legal assistance; transportation; trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange; financing; and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, USSC and its Members may undertake the following activities:

1. With respect to the Export Markets, USSC and/or one or more of its Members may:

a. Engage in joint bidding or selling arrangements and allocate sales resulting from such arrangements among the Members; and

b. Including by agreement with Export Intermediaries:

(i) Establish the prices at which Product will be sold;

(ii) Establish standard terms of sale for Products;

(iii) Establish standard quality grades for Product;

(iv) Establish target prices for sales of Product by its Members, with each Member remaining free to deviate from such target prices in its sole discretion;

(v) Subject to the limitations set forth below, establish the quantity of Product for sale in specific Export Markets;

(vi) Allocate among the Members the Export Markets or customers in the Export Markets;

(vii) Refuse to quote prices for, or to market or sell Product; and

(viii) Engage in joint promotional activities aimed at developing existing or new Export Markets, such as advertising and trade shows;

Provided, however, That:

(1) Each USS Member shall independently, without any assistance from, participation of, or communication with any Member or non-Member, determine the quantity of Product to be made available to USSC for sale in the Export Markets;

(2) USSC may not require any Member to export any minimum quantity of Product; and

(3) Neither USSC nor any Member shall intentionally disclose, directly or indirectly, to any other Member the amount of Product that any Member or group of Members have agreed to make available for export through USSC;

Provided further, however, That:

(1) While USSC may not solicit specific quantities of Product from any Member, nor solicit any Member to a greater or lesser extent or with different information than any other Member, USSC may communicate simultaneously with all Members asking the Members to decide independently to commit, dedicate, or subscribe additional Product for export; and

(2) In the event of an over-commitment of Product from the Members, USSC may have subsequent individual communications with Members who have made commitments to reduce the quantities committed to meet the amount of Product needed, and USSC will make any adjustments in quantity of Product on a *pro rata* basis among the Members that made commitments.

2. USSC and/or one or more of its Members may enter into agreements to act in certain Export Markets as the Members' exclusive or non-exclusive Export Intermediary(ies) for the quantity of Product dedicated by each Member for sale by USSC or any Member(s) in such Export Markets. In any such agreement (i) USSC or the Member(s) acting as an exclusive Export Intermediary may agree not to represent any other Supplier of Product with respect to such Export Markets and (ii) Members may agree that they will export the quantity of Product dedicated for sale in such Export Markets only through USSC or the Member(s) acting as the Exclusive Export Intermediary, and that they will not export independently any of the Product dedicated to USSC, either directly or through any other Export Intermediary.

3. USSC and/or one or more of its Members may enter into exclusive and non-exclusive agreements appointing third parties ans Export Intermediaries for the sale of Product in the Export Markets. Such agreements may contain the price, quantity, quality, terms of sale, territorial and customer restrictions for the Export Markets contained in and subject the restrictions of paragraph 1, above.

4. The Members may refuse to deal with Export Intermediaries other than USSC and its Members.

5. USSC may, for itself and on behalf of its Members, contact non-Member Suppliers of Product to elicit information relating to price, volume, delivery schedules, terms of sale, and other matters solely to such Suppliers' sales or prospective sales in the Export Markets.

6. USSC and/or one or more of its Members may solicit individual non-Member Suppliers to sell Product and/or offer Export Trade Faciliation Services through the certified activitivies of USSC and/or its Members; provided, however, that USSC and/or one or more of its Members shall make such solicitations or offers to non-Member Suppliers on a transaction-by-transaction basis only and then only when the Members have not independently committed to a total quantity of Product sufficient to cover such transaction and USSC and/or the Member(s) does not pay non-Member domestic Suppliers more than the price to be received by USSC and/or its Member(s) pursuant to the transaction; and provided further that USSC and/or such Member(s) may exchange only such information with such non-Member Suppliers as is reasonably required by such transaction.

7. Subject to the restrictions set forth in this paragraph, with respect to the sale of Product to the Export Markets only, USSC may compile for, collect from, and disseminate to its Members, and the Members may discuss among themselves, either in meetings conducted by USSC or independently via telephone and other modes of communication as they decide appropriate, information about the following subjects:

a. Sales and marketing efforts, and activities and opportunities for sales of Product in Export Markets, including but not limited to selling strategies and pricing, projected demand for Product, standard or customary terms of sale in the Export Markets, prices and availability of Product from competitors, and specifications for Product by customers in the Export Markets;

b. Export prices, Product quality and quantity, Product source, and delivery dates for Product;

c. Standard terms of sales for Product;

d. Joint bidding or selling arrangements, and the allocation among the Members of Export Markets or customers in the Export Markets;

e. Expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs duties, and taxes;

f. U.S. and foreign legislation, regulations and policies affecting export sales; and

g. USSC's and/or its Members' export operations, including without limitation, sales and distribution networks established by USSC or its Members in the Export Markets, and prior export sales by Members (including export price information);

Provided, however, that:

(1) Each USSC Member shall independently, without any assistance from, participation of, or communication with any Member or non-Member, determine the quantity of Product to be made available to USSC for sale in the Export Markets;

(2) USSC may not require any Member to export any minimum quantity of Product; and

(3) Neither USSC nor any Member shall intentionally disclose, directly or indirectly, to any other Member the amount of Product that any Member or group of Members have agreed to make available for export through USSC;

Provided further, however, That:

(1) While USSC may not solicit specific quantities of Product from any Member, nor solicit any Member to a greater or lesser extent or with different information than any other Member, USSC may communicate simultaneously with all Members asking the Members to decide independently to commit, dedicate, or subscribe additional Product for export; and

(2) In the event of an overcommitment of Product from the Members, USSC may have subsequent individual communications with Members who have made commitments to reduce the quantities committed to meet the amount of Product needed, and USSC will make any adjustments in quantity of Product on a *pro rata* basis among the Members that made commitments.

8. USCC and its Members may prescribe conditions for withdrawal of members from and admission of members to USSC; *Provided, however,* That each member shall have the right to withdraw at any time without further liability to pay dues or assessments except to pay to the corporation any remaining amounts due under a written subscription signed by the Member agreeing to make such contribution.

9. With respect to Product for sale in the Export Markets USSC may, for itself or on behalf of its Members, establish and implement a quality assurance program for Product, including without limitation establishing, staffing and operating a laboratory to conduct quality testing, promulgating quality standards or grades, inspecting Product samples, and publishing guidelines for

and reports of the results of laboratory testing.

10. USSC may conduct meetings of its Members to engage in the activities described in paragraphs one through nine, above.

Definitions

1. *Supplier* means a person who produces, provides or sells Product or Export Trade Facilitation Services.

2. *Export Intermediary* means a person who acts as a distributor, representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: August 24, 1990.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 90-20430 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-DR-M

Exporters' Textile Advisory Committee; Open Meeting; Change From Date Originally Scheduled

A meeting of the Exporters' Textile Advisory Committee will be held on September 26, 1990. This is a change from the notice published August 23, 1990 (55 FR 34602) in which this meeting was scheduled for September 20th.

Dated: August 24, 1990.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-20476 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Meeting; Minority Enterprise Development Advisory Committee

The Department of Commerce announces the following meeting:

Name: Minority Enterprise Development Advisory Council, DOC.

Date and Time: August 28, 1990—9 a.m. to 4 p.m.

Place: Lockheed Headquarters, 4500 Park Granada, Dept. 03-30, Calabasas, CA 91399.

Contact person: Guale D. Owens, Confidential Assistant, Minority Business Development Agency, Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230, (202) 377-5061.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: Regular meeting.

Open Meeting—limited seating—anyone wishing to attend please call prior to meeting.

Kenneth E. Bolton,

Director.

[FR Doc. 90-20504 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council and its Committees will hold a public meeting on September 17-20, 1990, at the Doubletree Hotel, 300 Canal Street, New Orleans, LO.

Council

The Gulf of Mexico Council will begin its meeting on September 19 at 8:30 a.m. and adjourn at 5 p.m. It will hear public testimony on Red Snapper proposed rules (8:45 a.m. to 3 p.m.); and review the committee recommendations. The Council will recess at 5 p.m.

On September 20 at 8:30 a.m., the Council will reconvene to resume review of committee recommendations; receive the Billfish, Coral, Spiny Lobster, Habitat Protection, Shrimp Management Committee, Enforcement and Director's Reports; and elect the Chairman and the Vice Chairman. The Council meeting will adjourn at 4 p.m.

Committees

On September 17 at 11 a.m., the Committee will meet for orientation of new Council members and follow with meetings of the Coral, Spiny Lobster, Billfish, and Habitat Protection Committees, with adjournment at 5 p.m.

On September 18 at 8 a.m., the Joint Reef Fish/Shrimp Management Committees, followed by the Shrimp Management Committee will meet, with adjournment at 5 p.m.

FOR MORE INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 881, Tampa, FL 33609; telephone: (813) 228-2815.

Dated: August 24, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-20450 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-22-M

Public Hearings on the Draft Environmental Impact Statement/Management Plan for the Proposed Monterey Bay National Marine Sanctuary; Change of Location for Monterey Public Hearing

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Public hearing; change of location.

SUMMARY: A Notice announcing public hearings on the Draft Environmental Impact Statement/Management Plan for the proposed Monterey Bay National Marine Sanctuary was published in the **Federal Register** (55 FR 31798) on August 3, 1990. Due to the limited size of the room scheduled in Monterey and the large number of persons expected to attend the Monterey hearing on September 12, the location of the hearing and time of that hearing have been changed. The September 12, 1990 public hearing will now be held at the Monterey Conference Center, 1 Portola Drive, Monterey, California from 7:30 to 10 p.m.

The other two hearings will remain as scheduled: On September 13, 1990, from 7 to 10 p.m. at Veterans Hall Auditorium, 846 Front Street, Santa Cruz, California; and on September 14, 1990 from 7 to 10 p.m. at Half Moon Bay Community Seniors Center, 535 Kelly Street, Half Moon Bay, California. All interested persons are invited to attend.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, Program Specialist, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235, (202/673-5126).

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: August 24, 1990.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 90-20512 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-08-M

Endangered Species; Application for Permit; William F. Shake, U.S. Fish and Wildlife Service

Notice is hereby given that the Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S. C. 1531-1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR parts 217-222).

Applicant: Mr. William F. Shake, Assistant Regional Director, Fisheries and Federal Aid, U.S. Fish and Wildlife Service, 911 NE., 11th Avenue, Portland, Oregon 97232-4181.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Species:* Winter-run chinook salmon (*Oncorhynchus tshawytshca*), unspecified nmber of juvenile and adult.

4. *Type of Take:* The applicant proposes to take juvenile and adult winter-run chinook salmon while conducting six research projects on the Sacramento River winter-run chinook salmon.

5. *Location and Duration of Activity:* Sacramento River, California year-round at various study locations.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessairly reflect the views of the National Marine Fisheries Service.

Document submitted in connection with the above application are available for reveiw by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7514.

Dated: August 24, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-20451 Filed 8-29-90; 8:45am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Meetings: Frequency Management Advisory Council Subcommittee

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of meeting of the CITEL VI Subcommittee of the Frequency Management Advisory Council.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the Department of Commerce Committee Management Handbook, a subcommittee of the Frequency Management Advisory Council was established on June 27, 1990 to assist United States in preparation for the VIth InterAmerican Telecommunications Conference (CITEL VI) to be held in mid-1991. Major goals of United States participation in this conference are to strengthen the InterAmerican alliance, create additional market opportunities for U.S. industry in Latin America, and provide opportunities to further U.S. goals of privatization while assisting Latin American countries in improving their telecommunication infrastructures.

Notice of Meeting: The FMAC Subcommittee on Preparations for CITEL CI will meet on September 14, 1990, from 9:30 a.m. to 12 noon in room 1605 of the United States Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC. **Note: This is a change from the previous meeting notice for the CITEL VI subcommittee.** Public entrance to the building is on 14th Street between Pennsylvania Avenue and Constitution Avenue.

Notice of Meeting: The agenda for the Subcommittee on Preparations for CITEL VI will be:

I. Status report for previously assigned tasks
II. Review of Recommendations of Dr. Segal's Report on the Future of the CITEL
III. Comments by John O'Neill
IV. Update on the Santiago Telecommunicatons Exhibition
V. Progress Report on the Ad Hoc Meeting of PTC-1

Public Participation: This meeting of the CITEL VI Preparation Subcommittee will be held in accordance with the Federal Advisory Committee Act and will be open to public observations. A period will be set aside for oral comments or questions by the public. More extensive questions or comments should be submitted in writing before September 7, 1990. Other public statements regarding CITEL VI Subcommittee activities may be submitted at any time before or after the meeting. Approximately 25 seats will be available for the public on a first-come, first-served basis. Copies of the minutes will be available on request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquires or comments concerning the CITEL VI Subcommittee may be addressed to the Designated Federal Official, Mr. William Moran, National Telecommunications and Information Administration, room 4701, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, telephone (202) 377-1866.

Dated: August 10, 1990.

Michael W. Allen,

Executive Secretary, Frequency Management Advisory Council, National Telecommunications and Information Administration.

[FR Doc. 90-20482 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: New record system notice for public comment.

SUMMARY: The Office of the Secretary of Defense proposes to add a new system of records to its inventory of systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The new record system notice is set forth below.

DATES: The new system will be effective October 1, 1990, unless comments are received which result in a contrary determination.

ADDRESSES: Dan Cragg, OSD Privacy Act Officer, OSD Records Management and Privacy Act Branch, room 5C315, The Pentagon, Washington, DC 20301-1155. Telephone (202) 697-2501 or Autovon 227-2501.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a have been published in the **Federal Register** as follows:

50 FR 22090, 29 May 1985 (DoD Compilation, changes follow)
50 FR 47087, 14 Nov 1985
51 FR 11807, 7 Apr 1986
51 FR 17508, 13 May 1986
51 FR 44668, 11 Dec 1986
52 FR 23334, 19 Jun 1987
53 FR 15868, 4 May 1988
53 FR 27894, 25 Jul 1988
54 FR 33756, 16 Aug 1989
54 FR 43314, 24 Oct 1989
55 FR 17655, 26 Apr 1990
55 FR 20180, 15 May 1990
55 FR 21429, 24 May 1990

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on August 20, 1990, to the Committee on Governmental Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to paragraph 4b of appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985).

Dated: August 24, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS B46.0

SYSTEM NAME:

DoD Creditor Agency Accounts Receivable System.

SYSTEM LOCATION:

Washington Headquarters Services, Directorate for Budget and Finance, Room 3B287, The Pentagon, Washington, DC 20301–1155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons currently or formerly associated with the Department of Defense and who are financially indebted to a Defense creditor agency (excluding Military Departments).

Individuals may include current/former military active duty; reserve personnel; DoD civilian employees; non-appropriated fund employees; retired personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delinquent debt records consisting of individual's name, Social Security Number, sex, debt amount, basis for the debt, and history of debt collection activity for the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 97–365, The Debt Collection Act of 1982; 31 U.S.C. chapter 37, Subchapter I (General), and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset; 5 U.S.C. 5514 Installment deduction for Indebtedness (salary offset); 10 U.S.C. 136, Assistant Secretaries of Defense, Appointment powers and duties; Section 206 of Executive Order 11222; and Executive Order 9397.

PURPOSE(S):

To permit collection of debts owed to any Department of Defense creditor agency. Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the General Accounting Office and the Department of Justice for collection action for any delinquent account when circumstances warrant.

To a commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection.

To a debt collection agency for the purpose of collection services to recover indebtedness owed to a Department of Defense.

To any other Federal agency for the purpose of effecting salary offset procedures against a person employed by that agency when any Department of Defense creditor agency has a claim against that person.

To any other Federal agency including, but not limited to, the Internal Revenue Service and Office of Personnel Management for the purpose of effecting an administrative offset of a debt.

To the Internal Revenue Service (IRS) to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim against the taxpayer. (**Note:** Redisclosure of a mailing address form the IRS may be made only for the purpose of debt collection, including to a debt collection agency in order to facilitate the collection of compromise of a Federal claim under the Debt Collection Act of 1982, except that a mailing address to a consumer reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such address information obtained from the IRS will not be used or shared for any other DoD purpose or disclosed to another Federal, state or local agency which seeks to locate the same individual for its own debt collection purpose.)

To any other Federal, state or local agency for the purpose of conducting an authorized computer matching program to identify and locate delinquent debtors for recoupment of debts owed the Department of Defense.

The Office of the Secretary of Defense (OSD) "Blanket Routine Uses" set forth at the beginning of OSD's listing of record system notices also apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this sytsem to consumer reporting agencies as defined in the Fair Credit Reporting Act of 1966 (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (SSN); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic data is stored in floppy disks, magnetic tape, and hard disks of a mainframe computer system located in a secure computer facility.

RETRIEVABILITY:

Files are retrieved by name of individual or Social Security Number.

SAFEGUARDS:

Facilities where the system is maintained are locked when not occupied. Access is controlled by a user identification and password system. Personnel having access are limited to those having an official need-to-know who have been trained in handling personal information subject to the Privacy Act.

RETENTION AND DISPOSAL:

Computer files are retained for ten years after the close of the fiscal year in which the amount has been collected in full and are then deleted.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Director, Budget and Finance, Washington Headquarters Services, Room 3B287, The Pentagon, Washington, DC 20301–1155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to Director, Budget and Finance, Washington Headquarters Services, ATTN: IPMD, Room 3B287, The Pentagon, Washington, DC 20301–1155.

The individual should furnish their full name and Social Security Number, and name of the DoD agency/activity and office where assigned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to Director, Budget and Finance, Washington Headquarters Services: ATTN: IPMD, Room 3B287, The Pentagon, Washington, DC 20301–1155.

The individual should furnish their full name and Social Security Number, and name of the DoD agency/activity and office where assigned.

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense rules for accessing records and for contesting contents and appealing initial OSD determinations are published in OSD Administrative Instruction No. 81, "OSD Privacy Program"; 32 CFR part 286b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Debt records submitted by DoD agencies relating to individuals who have incurred debts for varied reasons but who are not currently affiliated with the creditor DoD agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90–20458 Filed 8–29–90; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Performance Review Boards, List of Members

Below is a list of additional individuals who are eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Office of the Secretary of the Air Force

BG Stephen P. Condon, Mr. William A. Davidson

Air Force Systems Command

BG Roy D. Bridges, Jr.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 90–20491 Filed 8–29–90; 8:45 am]

BILLING CODE 3910–01–M

Defense Logistics Agency

Meeting: Department of Defense Clothing and Textiles Board

August 24, 1990.

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Deputy Director for Acquisition Management, Defense Logistics Agency, announces the second meeting of the Department of Defense Clothing and Textiles (DoD C&T) Board.

DATES AND TIME: September 14, 1990, 0900–1530.

ADDRESSES: Hyatt Regency, Lancaster D&E rooms, 265 Peachtree Street, NE., Atlanta GA.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine James; Quality Assurance Specialist, Product Quality Management Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA, (202) 274–7141.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will focus on improvements to DoD acquisition of clothing and textile products.

MG Charles R. Henry,

USA Deputy Director (Acquisition Management).

[FR Doc. 90–20466 Filed 8–29–90; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

National Council on Vocational Education; Meeting

AGENCY: National Council on Vocational Education, Education.

ACTION: Notice of public meeting of the council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Council on Vocational Education. This notice described the functions of the Council. Notice of this meeting is required under section 10(a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES & TIME: September 16, 1990—6: to 7:30 p.m. Meeting Room 11; September 17, 1990—9 to 4 p.m. Meeting Room 5.

ADDRESS: Ramada Renaissance Tech-World, 999 9th Street, NW., Washington, DC 20001–9000, Phone: (202) 898–9000.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Winterton, Executive Director, 330 C Street, SW., MES—Suite 4080, Washington, DC 20202–7580 (202) 732–1884.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under section 431 of the Carl D. Perkins Vocational Education Act Public Law 98–524, 5 U.S.C.A. appendix 2.

The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Council is open to the public. The proposed agenda includes: discussions on the Reauthorization of the Carl D. Perkins Act, Reports on the Occupational Competencies, Comments on the Business, Industry and Education Forum, Committee Reports and New Council Initiatives. Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9 a.m. to 4:30 p.m.

Dated: August 24, 1990.

Joyce Winterton,

Executive Director.

[FR Doc. 90–20489 Filed 8–29–90; 8:45 am]

BILLING CODE 4000–01–M

Intent To Repay to the California State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the provision in effect when the final audit determination was made, the U.S. Secretary of Education (Secretary) intends to repay to the California State Department of Education, the State educational agency (SEA), the sum of (1) $40,693, an amount equal to approximately 67 percent of funds recovered by the U.S. Department of Education under the Vocational Education Act of 1963, as amended (VEA), as a result of a final audit determination; and (2) $12,131, an amount that is approximately 75 percent of the funds recovered under the Adult Education Act. This notice describes the SEA's plan for the use of funds which the Secretary intends to repay and the terms and conditions under which the Secretary intends to make these funds available and invites comments on the proposed grantback.

DATES: All comments must be received on or before October 1, 1990.

ADDRESSES: Comments concerning the $40,693 grantback should be submitted to Dr. Marcel R. DuVall, Chief, Finance Branch, Division of Vocational—Technical Education, Office of Vocational and Adult Education, U.S. Department of Education, (Mary E. Switzer Building, room 4318), 400 Maryland Avenue, SW., Washington, DC 20202–7324; comments concerning the $12,131 grantback should be addressed to Dr. Carroll F. Towey, Senior Program Advisor, Division of Adult Education and Literacy, Office of Vocational and Adult Education, U.S. Department of Education, (Mary E. Switzer Building, room 4427), 400 Maryland Avenue SW., Washington, DC 20202–7240.

FOR FURTHER INFORMATION CONTACT: Dr. Marcel R. DuVall, (202) 732–2402; Dr. Carroll F. Towey, (202) 732–2391.

SUPPLEMENTARY INFORMATION:

Background

The Department has recovered $659,291 from the SEA in response to claims arising from an audit conducted by the Health, Education and Welfare Audit Agency of seven Federal programs covering fiscal year (FY) 1975.

The claims involved the SEA's administration of title I, title II, title III, and title V of the Elementary and Secondary Education Act of 1965 (ESEA); the Vocational Education Act of 1963, part B (VEA); the Adult Basic Education Act; and the Manpower Development and Training Act. Specifically, the final audit determination of the Deputy Commissioner for Elementary and Secondary Education (the Deputy Commissioner) found that Federal funds had been spent in violation of the cost principles found in 45 CFR parts 100a and b, appendix B, part II(B)(10)(b), (1974), which required that employees with multiprogram responsibilities maintain time distribution records. The SEA appealed the determination of the Deputy Commissioner to the Education Appeal Board (EAB). The initial decision of the EAB was issued on August 1, 1985, and that decision became the Secretary's final decision. The SEA appealed the decision to the United States Court of Appeals for the Ninth Circuit. On June 9, 1987, while the case was pending, the parties in the case entered into a settlement agreement under which the SEA was to repay $659,291 to the Department in full settlement of the appeal. Of the $659,291 the SEA repaid on August 6, 1987, $60,655 was for misspent VEA funds, and $16,219 was for misspent Adult Education Act funds.

Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or local educational agency (LEA) affected by the determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and that the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which funds were originally granted.

Plan for Use of Funds Awarded Under a Grantback Agreement

(i) Perkins Act Grantback

Pursuant to section 456(a) of GEPA, the SEA has applied for a grantback and has submitted a revised plan for the use of $40,693, to carry out activities under sections 251 and 252 of the Carl D. Perkins Vocational Education Act (Perkins Act), as amended, 20 U.S.C. 2301 *et seq.* (Supp. IV 1986). This amount is approximately 67 percent of the funds recovered for improper expenditures of VEA funds. Since the Perkins Act has superseded the VEA, the State's proposal reflects the requirements of the Perkins Act.

The State proposes to use grantback funds to provide technical assistance through staff development training. The key activities are the preparation and delivery of several one—day site level training sessions prior to or shortly after the opening of school, and a day of on-site assistance as a followup to the initial training.

(ii) Audit Education Act Grantback

Pursuant to section 456(a) of GEPA, the SEA has also applied for a grantback of $12,131 and has submitted an plan for use of the grantback funds under the Audit Education Act. Under this plan, the SEA proposes to use the grantback funds to update the statewide directory of audit literacy services providers. The updated directory would provide program participants valuable information concerning adult literacy services offered throughout the State.

The Secretary's Determination

The Secretary has carefully reviewed the requests for repayment of funds, the plans, and other information submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action. In finding that the conditions of section 456 of GEPA have been met, the Secretary makes no determination

concerning any pending audit recommendations or final audit determinations.

Notice of the Secretary's Intent to Enter into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with the requirement of section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the California SEA under a grantback arrangement. One grantback award would be in the amount of $50,693, which is approximately 67 percent of the VEA funds recovered by the Department as a result of an audit. The other award would be in the amount of $12,131, which is approximately 75 percent of the recovered Audit Education Act funds.

Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The SEA agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantbacks must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plans that the SEA submitted and any amendments to those plans that are approved in advance by the Secretary; and

(c) The budgets that were submitted with the plans and any amendments to the budgets that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be expended not later than September 30, 1990, in accordance with section 456(c) of GEPA and the SEA's plans.

(3) The SEA must, not later than December 31, 1990, submit reports to the Secretary which—

(a) Indicate how the funds awarded under the grantbacks have been used;

(b) Show that the funds awarded under the grantbacks have been liquidated; and

(c) Describe the results and effectiveness of the projects for which the funds were spent.

(4) The SEA must maintain separate accounting records documenting the expenditures of funds awarded under the grantback arrangement.

(5) Before funds will be repaid pursuant to this notice, the SEA must repay to the Department any debts that become overdue, or enter into a repayment agreement for those debts.

(Catalog of Federal Domestic Assistance Number 84.048, Basic State Grants for Vocational Education and Audlt Education Catalog Number 84.002, State—administered Basic Grant Program.)

Dated: August 28, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90-20645 Filed 8-29-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intention to Negotiate a Grant with the College of Southern Idaho, Twin Falls, ID

AGENCY: Department of Energy.

ACTION: Intent to negotiate a grant with the College of Southern Idaho, Twin Falls, ID.

SUMMARY: "Mobile Laboratory Program", The U.S. Department of Energy (DOE), Idaho Operations Office, intends to negotiate, on a noncompetitive basis, a grant for approximately $60,000 with the College of Southern Idaho, Twin Falls, ID. This grant will carry the activity through September 30, 1991. This action is authorized by the Stevenson-Wydler Technology Innovation Act of 1980, 15 U.S.C. 3701 *et seq.*, and the Energy Research and Development Administration Act, 42 U.S.C. 5811 *et seq.* This agreement will provide the College of Southern Idaho with support for the development of their mobile laboratory. DOE Funding will be used to upgrade and furnish a 30-foot, fifth-wheel trailer for use as a mobile science laboratory that CSI will move to various schools in the participating rural school districts in south-central Idaho. The equipment and supplies in the trailer will be used by Junior and Senior High School teachers in the various schools to enhance their current science curriculum. The authority and justification for acceptance of this unsolicited proposal is DOE Financial Assistance Rule 10 CFR 600.14(e). The application is meritorious in that it supports the goal of the funding agency to enhance the science curriculum for students in rural disadvantaged areas. The concept of equipping one science laboratory very well and taking it to the small rural schools via a mobile trailer as opposed to trying to equip many schools is a unique and very innovative solution to providing science experiences to a large number of rural students. There are no recent, current, or planned solicitations under which this unsolicited proposal would be eligible for consideration. The work definitely meets the intent of the Department of Energy's Science Outreach Program and addresses a public need. Public response may be addressed to the contract specialist below.

FOR FURTHER CONTACT: U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, James McGowan, Contract Specialist (208) 526-8779.

Dated: August 23, 1990.

J.P. Anderson,

Acting Director, Contracts Management Division.

[FR Doc. 90-20515 Filed 8-29-90 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-554-000, et al.]

Electric Rate, Small Power Production, and Interlocking Directorate Filings; Louisville Gas and Electric Co., et al.

August 23, 1990.

Take notice that the following filings have been made with the Commission:

1. Louisville Gas and Electric Co.

[Docket No. ER90-554-000]

Take notice that on August 20, 1990, Louisville Gas and Electric Company tendered for filing a notice of cancellation or termination for Rate Schedule FPC No. 5. This rate schedule pertains to a transmission contract between Louisville Gas and Electric Company and its wholly-owned subsidiary Ohio Valley Transmission Corporation.

Comment date: September 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Beta Mariah, Inc.

[Docket No. QF88-369-001]

On August 16, 1990, Alpha Mariah, Inc. of 665 West Avenue J, Lancaster, California 93534 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Kern County, California, to the west of the town of Mojave. The original certification was issued on September 30, 1988, 44 FERC ¶61,442 (1988). The recertification is requested due to changes in the

ownership structure and a decrease in electric power production capacity from 25 MW to a range of 22.5 to 24.5 MW. In all other respects the facility remains the same as set forth in the original application.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Gamma Mariah, Inc.

[Docket No. QF88-364-001]

On August 16, 1990, Gamma Mariah, Inc. of 665 West Avenue J, Lancaster, California 93534 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Kern County, California, to the west of the town of Mojave. The original certification was issued on September 30, 1988, 44 FERC ¶61,442 (1988). The recertification is requested due to changes in the ownership structure and an increase in electric power production capacity from 15 HW to a range of 28.0 to 29.5 MW. In all other respects the facility remains the same as set forth in the original application.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Co.

[Docket No. ER90-553-000]

Take notice that on August 21, 1990, Pacific Gas and Electric Company (PG&E) tendered for filing an agreement between itself and the City of Los Angeles Department of Water and Power. The agreement pertains to the terms and conditions under which PG&E will own, operate, and maintain Mechanically Switched Capacitors at Table Mountain Substation.

Comment date: September 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Ocean State Power and Ocean State Power II

[Docket Nos. EC90-18-000 and ES90-46-000]

Take notice that on August 20, 1990, Ocean State Power (Ocean State I) and Ocean State Power II (Ocean State II) filed an Application with the Federal Energy Regulatory Commission (Commission) for Declaratory Order Disclaiming Jurisdiction Over Consolidation of Partnership Interests Controlled by Eastern Utilities Associates or Authorizing Such Consolidation pursuant to sections 203 and 204 of the Federal Power Act (FPA), 16 U.S.C. 824b and 824c, and the Commission's regulations promulgated thereunder at 18 CFR parts 33 and 34.

Ocean State I is a Rhode Island partnership currently consisting of two Delaware corporations, Ocean State Power Company and JMAI Power Corporation, and four Rhode Island corporations, TCPL Power Ltd., Narragansett Energy Resources Company, EUA Ocean State Corporation (EUA-OSC) and Newport Electric Power Corporation (Newport Power). Upon receipt of the requisite regulatory approval, EUA-OSC and Newport Power will be merged and the Ocean State I partnership agreement will be amended to remove Newport Power as a partner and to add Newport Power's equity and voting interests in Ocean State I to EUA-OSC's.

Ocean State II is a Rhode Island partnership currently consisting of six Rhode Island corporations, JMC Ocean State Corporation, Makowski Power, Inc., TCPL Power, NERC, EUA-OSC and Newport Power. Upon receipt of the requisite regulatory approval, EUA-OSC and Newport Power will be merged and the Ocean State II partnership agreement will be amended to remove Newport Power as a partner and to add Newport Power's equity and voting interest in Ocean State II to EUA-OSC's.

Comment date: September 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Orange and Rockland Utilities, Inc.

[Docket No. ER90-451-000]

Take notice that on July 23, 1990, Orange and Rockland Utilities, Inc. tendered for filing information concerning the service agreement between Orange and Rockland Utilities, Inc. and Revere Smelting & Refining Corporation that was the subject of the filing in this docket.

Comment date: September 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. United States Department of Energy—Western Area Power Administration (Parker-Davis Project)

[Docket No. EF90-5041-000]

Take notice that on August 22, 1990, the Deputy Secretary of Energy submitted for final confirmation and approval rates of the Western Area Power Administration for Wholesale Firm Power, Firm and Nonfirm Transmission (Rate Schedules PD-F3, PD-FT3, PD-NFT3, and PD-FCT3) for the Parker-Davis Project. The Deputy Secretary states that the rates are substitute rates in response to the Commission's order of May 4, 1990 remanding the rates previously in effect on an interim basis.

Comment date: September 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Ryegate Wood Energy Co.

[Docket No. QF86-607-003]

On August 15, 1990, Ryegate Wood Energy Company, of 257 East 200 South, Suite 800, Salt Lake City, Utah 84111, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in the vicinity of the Town of Ryegate, Vermont just north of East Ryegate off U.S. Route No. 5 on property bordered by the Connecticut River. The facility will consist of a biomass-fired boiler and a steam turbine generator. The net electric power production capacity of the facility will be 19.0 MW. The primary source of energy will be wood chips, wood waste and forest residues. Fuel oil will be used for startup, shutdown, and flame stabilization. Applicant states that Equinox Vermont Corporation, an indirect subsidiary of Central Vermont Public Service Corporation, an electric utility, will have a 25% ownership interest in the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

9. Alpha Mariah, Inc.

[Docket No. QF88-368-001]

On August 16, 1990, Alpha Mariah, Inc. of 665 West Avenue J, Lancaster, California 93534 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Kern County, California, to the west of the town of Mojave. The original certification was issued on September 30, 1988, 44 FERC ¶61,442 (1988). The recertification is

requested due to changes in the ownership structure and a decrease in electric power production capacity from 25 MW to a range of 22.0 to 24.0 MW. In all other respects the facility remains the same as set forth in the original application.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

10. Southwestern Electric Power Co.

[Docket No. ER90-555-000]

Take notice that on August 22, 1990, Southwestern Electric Power Company tendered for filing changes in rates applicable to transmission services provided to Arkansas Electric Cooperative Corporation.

Comment date: September 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20439 Filed 8-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER90-549-000 et al.]

Electric Rate, Small Power Production, and Interlocking Directorate Filings; Pacific Gas and Electric Co., et al.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Co.

[Docket No. ER90-549-000]

August 20, 1990.

Take notice that on August 16, 1990, Pacific Gas and Electric Company (PG&E) tendered for filing a letter agreement between PG&E and the Northern California Power Agency (NCPA) concerning PG&E's telemetering requirements for parallel operation of all NCPA generating units.

Comment date: September 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Portland General Electric Co.

[Docket No. ER90-550-000]

August 20, 1990.

Take notice that on August 17, 1990, Portland General Electric Company (PGE) tendered for filing its Long-term Power Sale Agreement with the Western Area Power Administration, along with explanatory and supporting documents regarding the agreement.

Comment date: September 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Co.

[Docket No. ER90-552-000]

August 21, 1990.

Take notice that on August 20, 1990, Pacific Gas and Electric Company (PG&E) tendered for filing proposed changes to the PG&E-City and County of San Francisco (CCSF) Interconnection Agreement (Rate Schedule FERC No. 114) and the PG&E-Turlock Irrigation District (TID) Interconnection Agreement (Rate Schedule FERC No. 115). PG&E states that the changes better define the term "thermal and economy energy," which definition the parties have agreed to from the effective dates of each agreement, and which is used in the calculation of the Fuel Cost Adjustment (FCA) included in the rate appendix to each agreement. In addition, the changes do not result in inclusion of any additional costs in the FCA. PG&F states that copies of the filing were served upon the California Public Utilities Commission, CCSF, and TID.

Comment date: September 7, 1990, in accordance with Standard Paragraph E end of this notice.

4. Northern States Power Co.

[Docket No. ER90-406-000]

August 21, 1990.

Take notice that on August 8, 1990, Northern States Power Company-Minnesota and Northern States Power Company-Wisconsin tendered for filing requisite cost support, including testimony and exhibits, constituting its case-in-chief with respect to the transmission services agreement with Wisconsin Public Power Incorporated System filed on June 1, 1990.

Comment date: September 7, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Washington Water Power Co.

[Docket No. ER90-551-000]

August 21, 1990.

Take notice that on August 17, 1990, Washington Water Power Company (WWP) tendered for filing the Intercompany Pool Agreement executed by itself, Idaho Power Company, PacifiCorp, d/b/a/ Pacific Power & Light Company and Utah Power & Light Company, Portland General Electric Company, Puget Sound Power & Light Company, Sierra Pacific Power Company, and Montana Power Company.

Comment date: September 7, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric Power Co.

[Docket No. ER90-540-000]

August 22, 1990.

Take notice that on August 16, 1990, Virginia Electric Power Company (VEPCO) tendered for filing corrected pages of testimony making up part of its filing this docket, previously submitted on August 7, 1990. VEPCO states that it has served copies of its filing upon the same entities that received copies of its original filing in this docket.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Bonneville Nevada Corp.

Docket No. QF90-210-000]

August 22, 1990.

On August 13, 1990, Bonneville Nevada Corporation of 257 East 200 South, suite 800, Salt Lake City, Utah 84111, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located adjacent to the Georgia-Pacific Plant 18 miles northwest of Las Vegas, in Clark County, Nevada. The facility will consist of three combustion turbine-generators, three supplementary fired heat recovery boilers and one extraction/condensing steam turbine generator. The thermal energy recovered from the facility will be used for calcining ore and kiln drying wallboard sheets. The net electric power production capacity of the facility will

be 85 MW. The primary energy source of the facility will be natural gas.

Comment date. in the **Federal Register**, in accordance with Standard paragraph E at the end of this notice.

8. The City of New Orleans v. Energy Corp., Arkansas Power & Light Co., New Orleans Public Service Inc., Louisiana Power & Light Co., Mississippi Power & Light Co., and System Energy Resources, Inc.

[Docket No. EL90–48–000]

August 22, 1990.

Take notice that on August 20, 1990, the City of New Orleans ("New Orleans") submitted a complaint against the named respondents. New Orleans asserts that the removal of certain generating facilities, owned by Arkansa Power & Light Company, from system operations and the transfer of these facilities to a newly created independent power subsidiary that would sell the energy generated by these facilities primarily off-system would substantially increase the cost of electricity sold through the System Agreement and have other unjust and unreasonable effects on New Orleans Public Service Inc., Louisiana Power & Light Company and their ratepayers in New Orleans.

Comment date: September 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 20431 Filed 8–29–90; 8:45 am]

BILLING CODE 6717–01–M

[1] These prior notice requests are not consolidated.

Federal Energy Regulatory Commission

[Docket Nos. CP90–1860–000, et al.]

ANR Pipeline Co., et al.; Natural Gas Certificate Filings

August 21, 1990.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Co.

[Docket No. CP90–1860–000]

Take notice that on July 31, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 84243, filed in Docket No. CP90–1860–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a firm transportation service, effective June 1, 1990, for Natural Gas Pipeline Company of America (Natural), an existing jurisdictional transportation customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that it was authorized, by Commission Opinion No. 577 issued April 30, 1970, as amended by orders issued July 20, 1970 and October 30, 1970, in Docket No. CP70–21, to transport, on a firm basis, up to 155,000 Mcf of natural gas per day for Natural. ANR states that it has been providing the transportation service pursuant to Rate Schedule X–17 of its FERC Gas Tariff, Original Volume No. 2.

ANR asserts that by letter dated June 12, 1990, ANR and Natural mutually agreed to terminate Rate Schedule X–17 effective June 1, 1990. ANR avers that it would continue the transportation service for Natural pursuant to ANR's blanket certificate effective June 1, 1990.

Comment date: September 11, 1990, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Co.

[Docket No. CP90–1993–000]

Take notice that on August 15, 1990, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252 filed an application with the Commission in Docket No. CP90–1993–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon certain facilities at Tennessee's interconnection with National Fuel Gas Supply Corporation (National Fuel) at the Oil City Meter Station in Venango County, Pennsylvania, all as more fully set forth in the application which is open to public inspection.

Tennessee states that it intends to relocate certain of the facilities from the Oil City Meter Station to a new point of interconnection with National Fuel at Coal Hill No. 2 in Venango County, Pennsylvania, at the request of National Fuel. Tennessee states that it has filed with the Commission under its blanket authority for the addition of such delivery point at Coal Hill No. 2. in Docket No. CP90–1992–000. The total cost of the installation, reconditioning and removal would be $203,000, which would be reimbursed by National Fuel.

Comment date: September 11, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Co.

[Docket Nos. CP90–1996–000, CP90–1997–000, CP90–1998–000]

Take notice that on August 15, 1990, ANR Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88–532–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: October 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name	Peak day,[2] average annual	Points of [3] Receipt	Points of [3] Delivery	Start up date, rate schedule, service type	Related [1] docket, contract date
CP90-1996-000 (8-15-90)	Texaco Gas Marketing Inc	250,000 250,000 91,250,000	KS, LA, OK, TX, OLA, OTX.	MI	6-18-90, ITS, Interruptible	ST90-4007-000, 8-24-89.
CP90-1997-000 (8-15-90)	Entrade Corporation	100,000 100,000 36,500,000	KS, LA, OK, TX, OLA, OTX.	WI	6-23-90, ITS, Interruptible	ST90-4006-000, 1-5-90.
CP90-1998-000 (8-15-90)	Tejas Power Corporation	100,000 100,000 36,500,000	LA, OLA, OTX	IL	6-23-90, ITS, Interruptible	ST90-4002-000, 12-15-90.

[1] If an ST docket is shown, 120-day transportation service was reported in it.
[2] Quantities are shown in Dth.
[3] Offshore Louisiana and Offshore Texas are shown as OLA and OTX.

4. Western Gas Processors, Ltd.

[Docket No. CP90-1973-000]

Take notice that on August 10, 1990, Western Gas Processors, Ltd. (Western Gas), suite 230, 12200 N. Pecos Street, Denver, Colorado 80234, filed in Docket No. CP90-1973-000 a petition under rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order requesting that the Commission disclaim jurisdiction over certain certificated facilities comprising the Barker Dome System and the Boundary Butte System, being located primarily in San Juan County, New Mexico,[2] currently owned by El Paso Natural Gas Company (El Paso), which El Paso is concurrently seeking to abandon by conveyance to Western Gas. Western Gas requests that once such facilities are abandoned by El Paso and acquired and operated by Western Gas, the Commission determine that they will constitute non-jurisdictional gathering and processing facilities under section 1(b) of the Natural Gas Act (NGA).

Western Gas states that it is purchasing these facilities in conjunction with Chuska Energy Company (Chuska). However, Western Gas states that it will be the operator of the facilities and that this petition is filed on behalf of Western Gas alone. Consequently, Western Gas states that all references hereinafter made to its purchase-acquisition of such facilities should be read as encompassing the purchase by Chuska as well.

Western Gas states that it is an independent owner and operator of a number of natural gas processing plants and related facilities. Western notes that it is affiliated with a small, non-major interestate pipeline, MIGC, Inc. (MIGC). Western Gas avers that MIGC's facilities are all located within the Powder River Basin are of the state of Wyoming and are neither connected to nor operated in conjunction with the gathering facilities which are the subject of the instant petition. In an effort to expand its operations, Western Gas states that it has recently contracted to purchase from El Paso certain natural gas compression, processing plant and gathering facilities located in the Four Corners area of the Southwest. Because these facilities were originally certificated by the Commission during the 1950's, Western Gas states that El Paso has requested permission and approval to abandon such facilities by conveyance to Western Gas in Docket No. CP90-1600-000, and Western Gas is seeking the instant declaratory order.

According to Western Gas, the certificated facilities in question are included in two separate, operationally independent gathering systems, Barker Dome and Boundary Butte, both of which terminate at El Paso's mainline transmission facilities in New Mexico. Western Gas states that the Barker Dome System was initially constructed by El Paso in 1951 to gather and process natural gas from the Barker Dome Field in Northwestern New Mexico and was comprised of both the Barker Dome gathering system and the San Juan River Processing Plant which contained field compression sufficient to pull gas through the gathering system for delivery to the processing facilities. Western Gas states that after the gas was processed (purification, dehydration and sulfur removal) to pipeline quality, it entered El Paso's mainline compression facilities for further compression prior to entry into El Paso's mainline system and transmission to various delivery points on its system. According to Western Gas, the facilities subject to its petition include (1) the San Juan River Plant, which includes five compression units, a dehydrator and other processing facilities; and (2) the Barker Dome System, with approximately 7 miles of 8-inch pipeline, 1½ miles of 10-inch pipeline and 16 miles of jurisdictional, non-certificated pipeline ranging in size from 2⅜-inches to 24-inches in diameter, located in San Juan County, New Mexico, and related trunk and well-tie lines.

Western Gas avers that El Paso constructed the Boundary Butte System in 1958 to gather gas from the Boundary Butte, East Boundary Butte and Aneth production fields, to the San Juan River Plant for processing to pipeline quality and mainline transmission to various delivery points. According to Western Gas, the certificated Boundary Butte facilities which it is purchasing from El Paso consist of approximately 62 miles of 16-inch pipeline and approximately 13 miles of 20-inch pipeline located in San Juan County, Utah, Apache County, Arizona and San Juan County, New Mexico and related gathering and well-tie lines.

Western Gas states that by agreement dated July 26, 1989, it contracted to purchase the above described facilities from El Paso with the intention of owning and operating such facilities as non-jurisdictional gathering facilities. Western Gas states that it has also contracted to purchase other facilities from El Paso which are not at issue here, such as a products line. Western Gas submits that its purchase from El Paso also includes gathering facilities which make up parts of the Barker Dome and Boundary Butte Systems, but which were never certificated. Inasmuch as such facilities have never been deemed jurisdictional, Western Gas states that its petition seeks a declaratory order only with respect to those portions of the systems which have been certificated.

Western Gas submits that an examination of the Barker Dome and Boundary Butte Systems discloses that their function is to gather and process natural gas, a non-jurisdictional activity under the Natural Gas Act. Further, Western Gas states that, as El Paso indicates in its application to abandon the facilities, El Paso is continuing its

[2] The subject facilities are predominantly located in San Juan County, New Mexico; however, minor facilities extend into Apache County, Arizona and San Juan County, Utah.

transition from being primarily a gas merchant to being a major gas transporter, and its market no longer requires access to the gas supplies provided by these systems. Thus, Western Gas avers that the utilization of the facilities has changed dramatically since the time of their construction during the 1950's. It is stated that these systems can no longer be viewed simply as an extension of interstate pipeline supply facilities into a production area. Rather, Western Gas states that they are more appropriately characterized as regional gathering and processing systems which can provide residue gas and salable liquids to markets extending beyond the traditional reach of the El Paso system.

Following the abandonment of these facilities by El Paso, Western Gas states that it intends to operate the Barker Dome and Boundary Butte Systems as independent gathering and processing systems much like the facilities Western Gas currently owns and operates in other regions. While Western Gas states it will provide gathering and processing services for El Paso's remaining system gas supplies behind the system, as previously indicated, the bulk of these supplies is no longer dedicated to El Paso. Moreover, Western Gas states that as indicated in El Paso's application, only approximately 28 MMcfd of gas in total is presently flowing into the inlet of the San Juan River Plant from these system. Western Gas states that this is a level of utilization which is significantly less than the aggregate design capacity of 170 MMcfd of these facilities. As a result, for the system to become an economically viable venture, Western Gas states it will be necessary for it to attract as many additionally users in the area as possible, and this task is made more difficult by the existence of competing non-jurisdictional gatherers and processors who are currently operating in the same area.

As noted in El Paso's application, Western Gas observes that one of the reasons for the current underutilization of the facilities (*i.e.*, the "precipitous decline" of gas flowing into the San Juan River Plant) is a 1985 settlement in Docket No. CP74–314–014, 31 FERC ¶ 61,370 (1985), under which El Paso agreed to redirect certain volumes of natural gas from its own processing plants in the San Juan Basin to the new Blanco Plant which is operated by Conoco Inc. and Amoco Production Company. Western Gas states that this plant has already resulted in a substantial diversion of natural gas from the San Juan River Plant and can be expected to remain competitive with the San Juan River Plant for significant volumes of gas produced in the area in the future. Additionally, Western Gas avers that the proximity of wells in the region to facilities attached to the Northwest Pipeline Corporation system in Utah and Colorado will give rise to further competitive pressures in the operation of the subject gathering/processing facilities, which are connected exclusively to El Paso. It is further stated that the Val Verde Plant of Meridian Oil Company with its extensive gathering system, as well as the recently expended gathering facilities and new processing plant of WestGas (Western Gas Supply Company, a subsidiary of Public Service Company of Colorado) also constitute major competitive forces operative in the general region.

Western Gas states that it intends to meet this competition through the infusion of additional investment into the existing San Juan River Plant facilities, into which both the Barker Dome and Boundary Butte Systems feed. Currently, Western Gas states that a number of wells producing sour gas connected to the Barker Dome gathering facilities have been shut-in because recent levels of throughput at the San Juan River Plant have been too low to encourage the investment necessary to increase the capacity of sulfur removal facilities at the plant. Western Gas intends to make this and other investments in the plant on the basis of its belief that modernization and expansion of existing plant equipment will tend to maximize utilization of both gathering and processing facilities in two ways: It will ensure the ability of the plant to handle a greater quantity of the non-pipeline quality (sour) gas currently available in the region, thus encouraging an increase in the current production of such gas in the area, and it will hopefully attract other new throughput to these systems due to the increased operating efficiencies resulting from the updating of the existing older facilities.

Western Gas states that it is currently in the process of negotiating percentage-of-proceeds contracts with a number of behind-the-plant producers in the area in order to ensure that their production will be committed to the San Juan River Plant, thereby maximizing both the throughput and the economies of its gas processing operations. According to Western Gas, its acquisition and operation of the Barker Dome and Boundary Butte Systems as non-jurisdictional, independent gathering and processing systems will result in increased utilization of these facilities and the provision of more efficient services than are currently being provided in the area, and will enhance regional competition, thus benefitting the current users of these services and hopefully attracting additional production investment into this area.

Comment date: September 11, 1990, in accordance with the first subparagraph of standard paragraph F at the end of this notice.

5. Tennessee Gas Pipeline Co.

[Docket No. CP90–1992–000]

Take notice that on August 16, 1990, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90–1992–000 a request pursuant to § 284.212 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate a new delivery point for deliveries of natural gas to National Fuel Gas Supply Corporation (National Fuel) in Venango County, Pennsylvania under its blanket certificate issued in Docket No. CP82–413–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee states that pursuant to authorization granted in Docket Nos. CP67–71, CP68–166 and CP67–381 and Tennessee's Rate Schedule CD–4, Tennessee provides a firm sales service for National Fuel. At National Fuel's request, Tennessee seeks authorization to add a new delivery point and appurtenant facilities to National Fuel. It is further stated that the cost would be approximately $203,000 and that the total volumes delivered to National Fuel would not exceed presently authorized volumes.

Comment date: October 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Co.

[Docket No. CP90–1999–000]

Take notice that Williams Natural Gas Company, P.O. Box 3288, Tulsa, Oklahoma 74101, (Williams), filed in Docket No. CP90–1999–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act for authorization to abandon measuring, regulating and appurtenant facilities which served the Kansas Power & Light Company (KP & L) in Sedgwick County, Kansas, under

its blanket certificate issued in Docket No. CP82–479–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams proposes to abandon by reclaim the facilities which served as the town border setting for South Lawrence, Kansas. It is stated that KP & L requested the abandonment in a letter dated August 18, 1989, informing Williams that KP & L had disconnected the town border setting from its distribution system. It is asserted that KP & L would provide the same service using another existing town border location. It is estimated that the total cost of the abandonment would be $1,335 and that the salvage value would be $2,400.

Comment date: October 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. Williams Natural Gas Co.

Docket No. CP90–1980–000]

Take notice that on August 14, 1990, Williams Natural Gas Company (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90–1980–000, a reqauest pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by reclaim measuring, regulating and appurtenant facilities located in Wilson County, Kansas, under Applicant's blanket certificate issued in Docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that the facilities it seeks authorization to abandon were originally installed to serve Fred E. Wood & Associates oil heat treating operation and certificated in Docket No. CP66–113,34 FPC 1489 (1965). Applicant further states AX&P, Inc. superseded Fred E. Wood & Associates and now desires to cancel their gas sales contract. Applicant indicates that the cost to reclaim these facilities would be approximately $470 and the estimated salvage value would be $0.

Comment date: October 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiging to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90–20438 Filed 8–29–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA82–1–21–001, Docket No. CI64–26–023]

Columbia Gas Transmission Corp. and Chevron USA Inc.; Petition for Order Rehearing Escrow Funds

August 22, 1990.

Take notice that on August 1, 1990, Columbia Gas Transmission Corporation (Columbia) filed a petition for an order releasing certain funds held in escrow. Columbia states that as a result of the Commission's orders, Gulf Oil Corp. (Gulf) now Chevron U.S.A., Inc., (Chevron), was required to pay refunds to Texas Eastern Transmission Corp., (Texas Eastern), which would flow through the refunds to its customers. Chevron established an escrow account for the refund principle, and Chevron was allowed to recoup certain amounts of the refund principle upon delivery of gas to Texas Eastern, but the money could be released to Chevron only pursuant to a Commission order.

Columbia is a customer of Texas Eastern and received refunds from Texas Eastern. A dispute arose as to whether Columbia could retain the refunds paid to it by Texas Eastern or was required to flow it through to its customers and an escrow account was established and placed in the same account as the Chevron escrow account with the same provision that a Commission order was required to release the funds. By order issued June 2, 1989, the Commission held that pursuant to a settlement agreement, Columbia was entitled to retain the refunds and was not required to flow such funds through to its customers. Washington Urban League (League) petitioned for review before the United States Court of Appeals for the Third Circuit. On September 25, 1989, that court denied the petition, 886 F.2d 1381, and on November 9, 1989, it denied the League's request for rehearing and rehearing *en banc*. The time for filing a *writ of certiorari* has passed and none has been filed. The Commission's order that Columbia may retain the funds is now final and nonappealable.

Columbia states that the escrow agent has advised that it cannot release the funds to Columbia until there is a Commission order directing the release. Accordingly, Columbia requests the Commission to issue an order requiring the escrow agent to release the funds to Columbia similar to orders directing the escrow agent to release funds to Chevron. Columbia notes that in December 1989 counsel for the League filed simultaneous motions with the

Third Circuit and the Commission for $1.5 million in attorney's fees from the fund established by Chevron. On May 22, 1990, the court summarily denied the motion without opinion. The Commission has not ruled on the request.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practive and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 12, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20437 Filed 8-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-14-011 and RP89-235-002]

Inter-City Minnesota Pipelines Ltd., Inc.; Compliance Filing

August 23, 1990.

Take notice that on August 17, 1990, Inter-City Minnesota Pipeline Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, submitted for filing the following substitute tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Second Substitute Thirty-Third Revised Sheet No. 4
Substitute First Revised Thirty-Fourth Revised Sheet No. 4
Substitute Thirty-Fifth Revised Sheet No. 4
Second Substitute Thirty-Sixth Revised Sheet No. 4
Substitute Thirty-Seventh Revised Sheet No. 4
Second Substitute Thirty-Eight Revised Sheet No. 4
Substitute Thirty-Ninth Revised Sheet No. 4
Substitute Fortieth Revised Sheet No. 4
Forty-First Revised Sheet No. 4
First Revised Sheet No. 4A
Second Revised Sheet No. 6
Second Revised Sheet No. 7
First Revised Sheet No. 20
First Revised Sheet No. 21
First Revised Sheet No. 66
Original Sheet No. 66A
Second Substitute Sixth Revised Sheet No. 11
Seventh Revised Sheet No. 11
Second Substitute Sixth Revised Sheet No. 12

Inter-City states the filing is made in compliance with the Commission's order issued in this proceeding on August 3, 1990 approving the Stipulation and Agreement certified to the Commission as an uncontested offer of settlement on April 10, 1990. The order required Inter-City to file tariff sheets within 30 days of the issuance of the order to implement the settlement. Inter-City states that the revised tariff sheets reflect revised rates in accordance with the settlement, elimination of the minimum bill, elimination of Inter-City's existing zoned rate structure and change of the SG-1 and G-1 rates from a three-part to a two-part rate. Inter-City states that it will file its electronic filing shortly.

Inter-City states that notice of this filing has been mailed to both of its customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 (1990)). All such protests should be filed on or before August 31, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20435 Filed 8-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-1-46-027 and TQ89-1-46-029]

Kentucky West Virginia Gas Co.; Compliance Filing

August 23, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West), on August 10, 1990, made a filing in the referenced proceedings in compliance with the Commission's letter order issued August 3, 1990. As part of that filing an Original Sheet No. 10C was submitted. Subsequently, Kentucky West states that certain changes had to be made to that tariff sheet before it was submitted on electronic media. Accordingly, Kentucky West made another filing on August 17, 1990, and requests that Original Sheet No. 10C filed on August 10, 1990, be withdrawn and that Substitute Original Sheet No. 10C be filed in this docket.

Kentucky West states that copies of this filing were served upon the company's jurisdictional customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 38.214, 385.211 (1990). All such protests should be filed on or before August 30, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20436 Filed 8-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-1-46-028 and RP86-166-013]

Kentucky West Virginia Gas Co.; Compliance Filing

August 23, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West), on August 16, 1990, tendered for filing as proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets:

2nd Substitute Refiled Original Sheet No. 8A
2nd Substitute Refiled Original Sheet No. 10B

Kentucky West states that copies of this filing were served upon the company's jurisdictional customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR § 38.214, 385.211 (1990). All such protests should be filed on or before August 30, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20432 Filed 8-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-144-004]

Northern Border Pipeline Co.; Proposed Changes in F.E.R.C. Gas Tariff

August 23, 1990.

Take notice that on August 17, 1990, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's F.E.R.C. Gas Tariff, Original Volume No. 1, the following tariff sheet:

Fourth Revised Sheet Number 100

The stated purpose of the tariff filing is (1) to reflect the appropriate sequence number of Sheet No. 100 from Third Revised to Fourth Revised, and (2) to reinsert the first part of subsection 3.2 of Rate Schedule T-1 on the bottom of Sheet No. 100 which was inadvertently omitted in the June 13, 1990 compliance filing of Sheet No. 100 in Docket No. RP87-144-003. Northern Border states that the incorrectly sequenced Third Revised Sheet No. 100, effective June 14, 1990, was accepted in a letter order dated August 10, 1990 in Docket No. RP87-144-003 and that the correctly sequenced Third Revised Sheet No. 100 had earlier been approved in Docket No. RP90-117-000 on June 21, 1990, and had became effective on July 1, 1990.

Northern Border has requested that this tariff sheet be effective June 14, 1990, as approved in Docket No. RP87-144-003. Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions or protests should be filed on or before August 30, 1990. Protests will be considered but do not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20433 Filed 8-29-90; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. RP89-240-003]

Northern Natural Gas Co.; Filing

August 23, 1990.

Take notice that on August 17, 1990, Northern Natural Gas Company, Division of Enron Corp., tendered for filing to become part of Northern's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

Fifth Revised Sheet No. 52F.3

Northern Natural Gas Company submits that such tariff sheet is being submitted in compliance with a FERC Order dated July 16, 1990 in Docket No. RP89-240-002. Northern Natural proposes a July 16, 1990 effective date.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 30, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20434 Filed 8-29-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3826-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Application for an Experimental Use Permit (EUP) to Ship and Use a Pesticide for Experimental Purposes Only. (EPA ICR # 0276.04; OMB # 2070-0040). This package extends the expiration date of a currently approved collection without changing the substance or the method of collection.

Abstract: Section 5 of the Federal Insecticide, Rodenticide, and Fungicide Act authorizes the EPA to issue permits to pesticide companies for the temporary shipment and experimental use of unregistered pesticide products. To obtain the permit, respondents submit to the Environmental Protection Agency an "Application for an Experimental Use Permit to Ship and Use a Pesticide for Experimental Purposes Only" (EPA form 8570-17104) and a subsequent final report on the results of the experimental program. The application form asks for the name and address of the party responsible for using the pesticide; the identity and proposed quantity of the pesticide that will be produced, shipped, and used; and whether the application is new or revised. The report on the final results of the experiment includes a description of the goals achieved and of any observed adverse effects. EPA uses this information to evaluate the product's potential for hazard, and to ascertain the genuine use of the permit for experimental purposes.

Burden statement: The public reporting burden for this collection of information is estimated to average nine hours per respondent. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Chemical Companies.

Estimated number of respondents: 125.

Responses per respondents: 1.

Estimated total annual burden on respondents: 1,125.

Frequency of collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503

Dated: August 22, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-20518 Filed 8-29-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications; Caprock Educational Broadcasting Foundation, et al

1. The Commission has before it the following mutually exclusive applications for 5 new FM stations:

Applicant, City and state	File No.	MM Docket No.
I		
A. Caprock Educational Broadcasting Foundation; Longview, TX.	BPED-880810MI	90-352
B. Ronald E. Patterson & Cal E. Varner d/b/a Capitol City Broadcasting Company; Longview, TX.	BPH-880812MZ	
C. TWJ Corporation; Longview, TX.	BPH-880816MT	
D. Randolph Millar and Helen V. Millar d/b/a Longview Broadcasting Company; Longview, TX.	BPH-880816MZ	
E. Ingram & Scott Communications Limited Partnership; Longview, TX.	BPH-880816NZ	
F. Matthew Williams; Longview, TX.	BPH-880816OC	
G. Delta Television Corporation; Longview, TX.	BPH-880816OK	

Issue heading and applicants

1. City Coverage-FM, A
2. Environmental, A
3. Main Studio, D
4. Site Availability, G
5. Air Hazard, B, F
6. Comparative, A, B, C, D, E, F, G
7. Ultimate, A, B, C, D, E, F, G

Applicant, City and state	File No.	MM Docket No.
II		
A. Mary Elizabeth Shelton d/b/a Valley Radio; Valley Station, KY.	BPH-881128MB	90-345
B. Louisville Community Boradcasting, Inc; Valley Station, KY.	BPH-881129MA	
C. Christy A. Hutter; Valley Station, KY.	BPH-881130MA	
D. River Broadcasting Limited Partnership; Valley Station, KY.	BPH-881201MB	
E. Mid-America Communications, Inc.; Valley Station, KY.	BPH-881201MC	
F. High Level Communications, Inc.; Valley Station, KY.	BPH-881201MD	
G. RamCom; Valley Station, KY.	BPH-881201ME	
H. Sharon Lee Olsen; Valley Station, KY.	BPH-881201MG	
I. Jerry L. Eaves; Valley Station, KY.	BPH-881201MH	
J. D.E.W. Communications Limited Partnership; Valley Station, KY.	BPH-881201MF [Dismissed herein]	

Issue heading and applicants

1. See Appendix, B
2. See Appendix, B
3. See Appendix, B
4. Air Hazard, G, H
5. Financial, D, H
6. Comparative, ALL
7. Ultimate, ALL

Applicant, City and state	File No.	MM Docket No.
III		
A. Margaret C. Schaller; Hartford, VT.	BPH-881011MG	90-263
B. Jane Dearden; Hartford, VT.	BPH-881013MF	
C. Upper Valley Christian Communications Fellowship, Inc. d/b/a Higher Ground Boradcasting; Hartford, VT.	BPH-881013MG	
D. Smith and Barr Communications, Inc.; Hartford, VT.	BPH-881013MH	

Issue heading and applicants

1. Air Hazard, B
2. Comparative, ALL
3. Ultimate, ALL

Applicant, City and state	File No.	MM Docket No.
IV		
A. Northport Broadcasting, Inc.; Northport, AL.	BPH-880913MC	90-351
B. David M. Baughn; Northport, AL.	BPH-880914MT	
C. Northport Communications, Ltd.; Northport, AL.	BPH-880915ME	
D. Warrior Broadcasting, Inc.; Northport, AL.	BPH-880915MO	
E. Port Broadcasting Corporation; Northport, AL.	BPH-880915MX	
F. Southern Entertainment, Ltd; Northport, AL.	BPH-880915NB	
G. Northport Better Broadcasters, Ltd.; Northport, AL.	BPH-880915NO	

Issue heading and applicants

1. Financial Qualifications, E
2. Air Hazard, A, C
3. Comparative, A-G
4. Ultimate, A-G

Applicant, City and state	File No.	MM Docket No.
V		
A. Patrick H. Robinson; Monroe, Louisiana.	BPH-880520MD	90-346
B. Charles G. Morgan; Monroe, Louisiana.	BPH-880601MW	
C. 287 Monroe Communications, Inc.; Monroe, Louisiana.	BPH-880602MZ	
D. Jobe Broadcasting Group Limited Partnership; Monroe, Louisiana.	BPH-880602NI	
E. Chactaw Broadcasting Corporation; Monroe, Louisiana.	BPH-880602NN	
F. Monroe Communications, Ltd.; Monroe, Louisiana.	BPH-880602NZ	
G. Chicago Broadcasting, Inc.; Monroe, Louisiana.	BPH-880602OB	
H. Allen Williams dba CB Broadcasting Co.; Monroe, Louisiana.	BPH-880602OD	
I. SEAB Communications, Inc.; Monroe, Louisiana.	BPH-880602OM	

Issue heading and applicants

1. Air Hazard, C, D, F, G, H, I
2. Comparative, All applicants
3. Ultimate, All applications

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's

name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commissions duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix (Valley Station, Kentucky)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of B (Louisville).

2. To determine whether B's (Louisville's) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issues 1 through 2 above, whether B (Louisville) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90–20520 Filed 8–29–90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011297.

Title: Barber Blue Sea/Senator Linie Discussion Agreement.

Parties: Wilhelmsen Lines AS d.b.a., Barber Blue Sea, Senator Linie.

Synopsis: The proposed Agreement would authorize the parties to discuss and agree upon rates, charges and other matters in the trade between ports on the West Coast of the United States and United States coastal and interior points via such ports and ports in the Republic of Panama and coastal and interior points served via such ports. The parties are not authorized to publish a common tariff and have no obligation to adhere, other than voluntarily, to any agreement reached.

By Order of the Federal Maritime Commission.

Dated: August 24, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 20424 Filed 8–29–90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Andover Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 19, 1990.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Andover Bancorp, Inc., Andover, Massachusetts; to acquire 100 percent of the voting shares of First Essex Bancorp, Inc., Lawrence, Massachusetts, and thereby indirectly acquire First Essex Savings Bank, Lawrence, Massachusets; and First Essex NH Bancorp., Inc., Windham, New Hampshire, and thereby indirectly acquire First Essex Savings Bank of New Hampshire, Windham, New Hampshire.

2. First Essex Bancorp, Inc., Lawrence, Massachusetts; to acquire 24.9 percent of the voting shares of Andover Bancorp, Inc., Andover, Massachusetts, and thereby indirectly acquire Andover Savings Bank, Andover, Massachusetts, which engages in Massachusetts Savings Bank Life Insurance Activities.

B. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Financial Holdings El-Yam (Hamigdal) Ltd., Tel Aviv, Israel; Israel Investments and Finance Corporation Ltd., Tel Aviv, Israel; Israel Financial Holdings Ltd., Tel Aviv, Israel; Gov Financial Holdings Ltd., Tel Aviv, Israel; and Naftali Financial Holdings Ltd., Tel Aviv, Israel; to acquire 51 percent of the voting shares of IDB Bankholding Corporation Ltd., Tel Aviv, Israel, and thereby indirectly acquire Israel Discount Bank of New York, New York, New York. In connection with this application, Financial Holdings El-Yam (Hamigdal) Ltd., has applied to become a bank holding company.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. United New Mexico Financial Corporation, Albuquerque, New Mexico; to acquire 100 percent of the voting shares of First Interstate Bank of Albuquerque, Albuquerque, New Mexico; First Interstate Bank of Lea County, Hobbs, New Mexico; and First Interstate Bank of Roswell, Roswell, New Mexico.

Board of Governors of the Federal Reserve System, August 24, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–20463 Filed 8–29–90; 8:45 am]

BILLING CODE 6210-01-M

Credit Suisse; Acquisition of Company Engaged In Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to

banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 19, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Credit Suisse, Zurich, Switzerland, and CS Holdings, Zurich, Switzerland; to acquire BEA Associates, Inc., New York, New York, and thereby engage in providing investment or financial advice pursuant to § 225.25(b)(4); and data processing services pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 24, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20464 Filed 8-29-90; 8:45 am]

BILLING CODE 6210-01-M

Drew G. Donnelly Revocable Trust; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 13, 1990.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Drew G. Donnelly Revocable Trust, Wheaton, Minnesota; to acquire an additional 80.32 percent of the voting shares of Traverse County Investment Corporation, Wheaton, Minnesota, for a total of 92.63 percent and thereby indirectly acquire State Bank of Wheaton, Wheaton, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Charles Westley Evans, Austin, Texas; to acquire 20.45 percent of the voting shares of Mid-Cities Bancshares, Inc., Hurst, Texas, and thereby indirectly acquire Mid-Cities National Bank, Hurst, Texas.

Board of Governors of the Federal Reserve System, August 24, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20465 Filed 8-29-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-19]

Availability of Health Assessment Guidance Manual

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of the draft ATSDR Health Assessment Guidance Manual for public review and comment.

This notice solicits any significant information, including unpublished data and other comments, which may aid in revising the draft manual.

ATSDR is mandated to conduct health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9604(i)) and the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6939a(c)).

The general procedures for the conduct of health assessments are included in the ATSDR Final Rule on Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (55 FR 5136, February 13, 1990, to be codified at 42 CFR part 90). The Guidance Manual sets forth in detail the health assessment process as developed by ATSDR and clarifies the methodologies and guidelines that will be used by ATSDR staff and agents of ATSDR in conducting health assessments.

AVAILABILITY: The draft Health Assessment Guidance Manual will be available to the public on or about August 31, 1990. A 60-day public comment period will be provided for the draft manual, which will begin with the date of release to the public. The close of the comment period will be indicated on the front of the draft manual.

Requests for the draft manual should be sent to:

Robert C. Williams, P.E., Director, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE., MS E-32, Atlanta, GA 30333

Upon receipt of the request, one copy of the report will be forwarded free of charge.

One copy of all comments and two copies of all supporting documents should be sent to Mr. Williams at the above address by the end of the comment period noted above. All written comments and data submitted in response to this notice and the draft manual should bear the docket control number ATSDR-19.

SUPPLEMENTARY INFORMATION: ATSDR is required by CERCLA to conduct health assessments at all sites on, or proposed for inclusion on, the National Priorities List (42 U.S.C. 9604(i)(6)(A)) and may also conduct health assessments in response to a request from the public (42 U.S.C. 9604(i)(6)(B)). In addition, EPA may request the conduct of a health assessment under RCRA (42 U.S.C. 6939a(b)).

The ATSDR health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or

other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects.

The ATSDR health assessment includes an analysis and statement of the public health implications posed by the site under consideration. This analysis generally involves an evaluation of relevant environmental data, health outcome data, and community concerns associated with a site where hazardous substances have been released. The health assessment also identifies populations living or working on or near hazardous waste sites for which more extensive public health actions or studies are indicated.

This notice announces the availability of the draft Health Assessment Guidance Manual. The manual has undergone extensive internal review and has been subjected to scientific and technical review by the ATSDR Board of Scientific Counselors.

We are now announcing its availability and encouraging the public's participation and comment on the further development of the manual.

Dated: August 23, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 90-20470 Filed 8-29-90; 8:45 am]

BILLING CODE 4160-70-M

Centers for Disease Control

[Program Announcement No. 102]

Public Health Conference Support Grant Program

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1991 for the Public Health Conference Support Grant Program.

Authority

This program is authorized under section 301 of the Public Health Service Act (42 U.S.C. 241). Program Regulations are set forth in 42 CFR part 52, entitled "Grants for Research Projects."

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, public and private organizations, state and local government agencies and small, minority and/or woman-owned businesses are eligible for these grants.

Availability of Funds

Approximately $200,000 will be available in Fiscal Year 1991 to fund approximately 12 awards. The awards will range from $1,000 to $30,000 with the average award being approximately $15,000. The award will be funded with a 12-month budget and project period. The funding estimate may vary and is subject to change.

The following are examples of the most frequently encountered costs which may or may not be charged to the grant:

(1) Grant funds may be used for direct cost expenditures: Salaries, speaker fees, rental of necessary equipment, registration fees, transportation costs (not to exceed economy class fare) for non-Federal employees.

(2) Funds may not be used for the purchase of equipment, payments of honoraria, organizational dues, entertainment/personal expenses, cost of travel and payment of a full-time federal employee, per diem or expenses other than local mileage for local participants, or reimbursement of indirect costs.

Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, federal funds cannot be used for this purpose.

Purpose

The purpose of the conference support grants is to provide partial support for specific non-federal conferences in the areas of health promotion and disease prevention information/education programs.

Program Requirements

The programmatic areas of interest in which applications are being solicited by CDC for conferences are: (1) Chronic disease prevention; (2) infectious disease prevention; (3) control of injury or disease associated with environmental, home, and workplace hazards; (4) environmental health; (5) occupational safety and health; (6) control of risk factors such as poor nutrition, smoking, lack of exercise, high blood pressure, stress and drug misuse; (7) health education and promotion; and (8) laboratory practices.

Because CDC's mission and programs relate to the promotion of health and the prevention of disease, disability, and premature death, only conferences focusing on such programmatic areas will be considered. Those topics concerned with health care and health services issues and areas other than prevention should be directed to other public health agencies.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Relevance of conference to CDC's mission and program activities. (25%)
2. Likelihood of accomplishing conference objectives as they relate to disease prevention and health promotion goals. (20%)
3. Capability of the proposed staff in relationship to the type of conference. (15%)
4. Feasibility of the project in terms of operational plan. (15%)
5. Soundness of method of evaluating the results of the conference in terms of objectives. (15%)
6. Adequacy of applicant's resources (additional sources of funding, organization's strengths, staff time, etc.) available for the project. (10%)
7. The appropriateness of the budget request. (Not Scored)

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number is 13.283.

Application Submission and Deadline

The original and two copies of the Application Form PHS 5161-1 shall be submitted in accordance with the schedule below. The schedule also sets forth the anticipated award date:

Application deadline	Anticipated award date
November 1, 1990	February 28, 1991.
February 1, 1991	May 31, 1991.
May 1, 1991	August 30, 1991.

Applications must be submitted on or before the deadline date to: Mr. Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E-14, Atlanta, Georgia 30305.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered

postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications*—Applications which do not meet the criteria in 1.a. or 1.b. will be considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, and an application package may be obtained from Ms. Carole J. Tully, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, (404) 842–6630 or FTS 236–6630.

Please refer to Announcement Number 102 when requesting information and submitting your application in response to this Announcement.

Dated: August 24, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 90–20469 Filed 8–29–90; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 90N–0280]

Drug Export; Anti-IgG; -C3d Polyspecific and Anti-C3b, -C3d Murine Monoclonal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Organon Teknika Corp., has filed an application requesting approval for the export of the biological products Anti-Human Globulin Anti-IgG; -C3d Polyspecific and Anti-C3b, -Ced Murine Monoclonal to The Netherlands.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Carl J. Chancey, Center for Biologics Evaluation and Research (HFB–124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Organon Teknika Corp., 100 Akzo Ave., Durham, NC 27704, has filed an application requesting approval for the export of the biological products Anti-Human Globulin Anti-IgG; -C3d Polyspecific and Anti-C3b, -C3d Murine Monoclonal to The Netherlands. These products are used for the detection of antibodies and/or components of compliment adsorbed to human red blood cells. The application was received and filed in the Center for Biologics Evaluation and Research on July 31, 1990, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by September 10, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: August 16, 1990.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 90–20468 Filed 8–29–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88G–0135]

E.I. du Pont de Nemours & Co.; Filing of Gras Affirmation Petition; Amdt.

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a generally recognized as safe (GRAS) affirmation petition filed by E.I. du Pont de Nemours & Co. proposing that chlorodifluoromethane be affirmed as GRAS for use as a blowing agent in the production of foamed polystyrene food-contact articles. The previous filing notice is amended to provide for a 600 parts per million (ppm) residual level of chlorodifluoromethane in foamed polystyrene used to fabricate shell egg cartons.

DATES: Comments by October 29, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 31, 1988 (53 FR 19822), FDA announced that a petition (GRASP 8G0340) had been filed by E.I. du Pont de Nemours & Co., c/o 1150 17th St. NW., Washington, DC 20036, proposing that chlorodifluoromethane (CDFM, HCFC–22) be affirmed as GRAS for use as a blowing agent in the production of foamed polystyrene food-contact articles. The GRAS affirmation petition had also proposed that the residual chlorodifluoromethane level in the polystyrene articles shall not exceed 5 ppm at the time of food-contact use. The petition was filed under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35). Subsequently, E.I. du Pont de Nemours & Co. amended the petition to provide for a 600 ppm residual level of chlorodifluoromethane in foamed polystyrene used to fabricate shell egg cartons.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Interested persons may, on or before October 29, 1990, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether this substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 23, 1990.

Douglas L. Archer,

Acting Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-20467 Filed 8-29-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-457-FN]

Medicare Program; Exclusion of Certain Food Allergy Tests and Treatments from Medicare Coverage

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This final notice reaffirms our decision published in the Federal Register on September 29, 1988 (53 FR 38076) to exclude from Medicare coverage sublingual, intracutaneous and subcutaneous provocative and neutralization testing and neutralization therapy for food allergies. Available evidence does not show that these tests and therapies are effective.

EFFECTIVE DATES: The policy announced in the September 29, 1988 notice was effective on October 31, 1988 and continues to be in effect.

FOR FURTHER INFORMATION CONTACT: Sam Della Vecchia (301) 966-5316.

SUPPLEMENTARY INFORMATION:

I. Background

Administration of the Medicare program is governed by the Medicare statute, title XVIII of the Social Security Act (the Act). The Medicare law provides coverage for broad categories of benefits, including inpatient and outpatient hospital care, skilled nursing facility (SNF) care, home health care, and physicians' services. It places general and categorical limitations on the coverage of the services furnished by certain health care practitioners, such as dentists, chiropractors, and podiatrists, and it specifically excludes some categories of services from coverage, such as cosmetic surgery, personal comfort items, custodial care, routine physical checkups, and procedures that are not reasonable and necessary for the diagnosis or treatment of an illness or injury. The statute also provides direction as to the manner in which payment is made for Medicare services, the rules governing eligibility for services, and the health, safety and quality standards to be met by institutions furnishing services to Medicare beneficiaries.

The Medicare law does not, however, provide an all-inclusive list of specific items, services, treatment procedures, or technologies covered by Medicare. Thus, except for the examples of durable medical equipment in section 1861(n) of the Act, and some of the medical and other health services listed in sections 1861(s) and 1862(a) of the Act, the statute does not specify medical devices, surgical procedures, or diagnostic or therapeutic services that should be covered or excluded from coverage.

The intention of Congress, at the time the Medicare Act was passed in 1965, was that Medicare would provide health care insurance to protect the elderly or disabled from the substantial costs of acute health care services, principally hospital care. The provision was designed generally to cover services ordinarily furnished by hospitals, SNFs, and physicians licensed to practice medicine. Congress understood that questions as to coverage of specific services would invariably arise and would require a specific determination of coverage by those administering the program. Thus, it vested in the Secretary the authority to make those determinations. Specifically, section 1862(a)(1)(A) of the Act prohibits payment for any expenses incurred for services "which * * * are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member."

We have interpreted those medical and health care services that are not demonstrated to be safe and effective by acceptable clinical evidence. We made a preliminary judgment with respect to certain food allergy testing and treatment procedures in 1983, and on August 19, 1983, we published a proposed notice (48 FR 37716) that announced our intention to exclude them from Medicare coverage. The procedures proposed for exclusion were the cytotoxic leukocyte test, sublingual, intracutaneous, and subcutaneous provocative and neutralization testing and neutralization therapy. In formulating the proposed coverage exclusions, we relied substantially on detailed evaluation and recommendations provided us by our consultants in the Public Health Service's National Center for Health Care Technology (PHS/NCHCT), which concluded that those tests and therapies should be considered experimental in the absence of scientific evidence of their effectiveness. The process HCFA uses in making coverage decisions is described in a proposed rule that was published in the Federal Register on January 30, 1989 (54 FR 4302).

In response to the August 19, 1983 proposed notice on the exclusion of certain food allergy testing and treatment procedures, we received over 19,000 comments from members of the general public, medical laboratories, medical societies and other professional organizations, and members of Congress. Almost all of the comments concerned whether Medicare should cover food allergy testing and treatment procedures and/or the effect of this coverage policy on other third party payers. (The response to these comments were addressed in a notice of ruling that was published on July 5, 1985 (50 FR 27691).) We referred the medical and scientific materials that we received on food allergy testing in response to the August 19, 1983 notice to the Public Health Service's Office of Health Technology Assessment (OHTA) for review and analysis on December 5, 1983. OHTA responded on January 11, 1984 that the additional submissions did not change the substance, conclusions, or in any way add new information which, if originally considered by NCHCT, would have resulted in a different coverage recommendation.

We published a notice of ruling on July 5, 1985 (50 FR 27691) that excluded only cytotoxic leukocyte testing for food allergies from Medicare coverage. At that same time, we announced that we were still evaluating information concerning sublingual, intracutaneous, and subcutaneous provocative and neutralization tests, and neutralization therapy for food allergies.

On February 12, 1986, we requested that OHTA once again review specific articles on sublingual, intracutaneous,

and subcutaneous provocative and neutralization tests and neutralization therapy for food allergies provided to us by proponents and determine whether they would suggest the need for reexamining the original NCHCT recommendations to not cover these food allergy tests and therapies because they lacked scientific evidence of effectiveness. On March 4, 1986, OHTA reiterated its response of January 11, 1984 about the procedures in question and added that these diagnostic and therapeutic modalities for food allergy are considered to be of unproven efficacy. We accepted the information provided by OHTA in their March 4, 1986 review. We requested on April 17, 1986 that OHTA review materials that we received subsequent to OHTA's recommendation of March 4, 1986. On June 9, 1986, OHTA informed us that the additional materials did not change the substance, conclusions, nor in any way add new information that might result in a changed coverage recommendation.

The American Medical Association's Council on Scientific Affairs issued a report in December 1986 titled "Informational Report on In Vivo Diagnostic Testing and Immunotherapy for Allergy" that reflected the views of scientific literature as of that date. In discussing intracutaneous and subcutaneous provocative tests and neutralization procedures and sublingual provocative testing and neutralization procedures for the diagnosis and treatment of food allergies, the report stated that many investigators had attempted to accomplish controlled trials of these procedures, but none of these had produced evidence of effectiveness. In the past, major difficulties have been the reproducibility of results, nonstandardized allergenic extracts, nonhomogenous patient populations, and varying methods of quantifying outcomes.

Moreover, at its May 1987 meeting, the Medical Advisory Panel of the Blue Cross/Blue Shield Association stated that sublingual, intradermal (that is, intracutaneous), and subcutaneous provocative and neutralization immunotherapies are experimental and investigative in the management of food allergy.

On September 29, 1988, we published a final notice with comment period (53 FR 38076) that announced that sublingual, intracutaneous and subcutaneous provocative and neutralization testing and neutralization therapy for food allergies are excluded from Medicare coverage, effective October 31, 1988. We provided for a 60-day comment period, ending November 28, 1988, in order to afford the public an opportunity to respond to our evaluation of the information we reviewed subsequent to the August 19, 1983 proposed notice (48 FR 37716).

II. Summary and Analysis of Comments

We received over 4,000 individual pieces of correspondence commenting on our final notice with comment period. We received comments from individuals, professional medical societies and other organizations, and members of Congress. In addition, we received comments from 300 physicians who opposed excluding these tests and therapies from Medicare coverage and from 200 physicians who favored this exclusion from Medicare coverage. Our responses to these comments are discussed below:

Comment: The vast majority of comments were testimonial and expressed the opinion that the food allergy testing and treatment procedures in question should not be excluded from Medicare coverage. These commenters believe the procedures are effective in controlling allergies. The only substantive comments were from commenters who submitted some medical and scientific materials. The most frequently submitted materials were two articles on provocation-neutralization that were published in the September 1988 issue of *Otolaryngology—Head and Neck Surgery*. We were encouraged by the commenters to submit the articles to the Public Health Service for further assessment.

Response: We submitted the articles and all other medical and scientific material that we received to OHTA for its evaluation. On May 18, 1989, OHTA noted that all but the two articles appearing in the September 1988 issue of *Otolaryngology—Head and Neck Surgery* were reviewed in their previous assessments. A summary of the OHTA analysis on the two studies follows.

Provocation-neutralization: A Two-part Study

Part I. The Intracutaneous Provocative Food Test; A Multi-Center Comparison Study

The objectives of this study are to assess the validity, the reliability, and the clinical usefulness of the intracutaneous provocative-neutralization food test (IPFT). Validity of the test is assessed against a bench marked test procedure currently used, the oral challenge food test (OCFT). The OCFT is assumed to be a standard procedure for determining allergenicity. Reliability is evaluated by comparing the results of a double blind IPFT (that is, neither the administrator nor the recipient knows at the time of administration whether an active or inert substance is given) with two other identical double blind IPFTs on the same patients, performed at 5-day intervals after the IPFT.

Validity, reliability, or clinical usefulness cannot be assessed based on results obtained from tests administered to 37 patients. The sample size is too small to achieve any type of precision of any statistical measure.

Moreover, 24 of the 37 patients are males. Therefore, any conclusions reached will be biased toward the reaction of males to this IPFT procedure. Twenty-eight of the 37 patients are between the ages of 31 and 50. Thus, again the results are limited to this group alone. The number of patients for any other age group is too small to make any conclusions of the validity, the reliability, or the clinical usefulness of the IPFT.

This study is one-sided: All patients involved in this study are food sensitive. Given this fact, one cannot assess the number of false positives in this experiment; that is, the number of patients who are not allergic to foods, but experience a positive reaction to the IPFT.

Validity and reliability are assessed by a simple measure of correlation between the results of the IPFT and OCFT. The measure used is the Pearson Product Moment Correlation. This is a measure of association, not of validity or reliability. Also, this particular measure of association is generally used for continuous variables. In this study, the variables are binary. Thus, this measure of association is inappropriate.

The tests conducted to evaluate reliability are too close in time, thus results could be affected by the series of tests. Moreover, a comparison of the first IPFT to the second is not comparable to a comparison of the first to the third series of tests: during the second test a neutralization dose was administered to the patients, and that could affect the results of the third tests. Thus, the comparison cannot be aggregated. Also, the tests were conducted for different types of foods. It is not clear whether the procedure is more valid when testing for allergy to wheat, or when testing allergy for milk.

Part II. Subcutaneous Neutralization Therapy; A Multi-Center Study

This multi-center blinded study focuses on the efficacy of subcutaneous neutralization food hypersensitivity

therapy. Its major conclusion is as follows:

> This study provides evidence that subcutaneous neutralization is an effective form of food hypersensitivity therapy and suggests that this form of treatment should prove beneficial in the clinical setting approximately 75 percent of the time, with further enhancement of results when supplemented by appropriate diet manipulation.

The study does not support this strong conclusion. This part of the study consisted of subcutaneous injections administered to 33 patients in different centers. This sample size is too small to achieve any type of precision of any statistical measure. Moreover, it is not clear whether this group of patients is a statistically representative group of patients that are allergic to certain types of food. Thus, any conclusions reached can apply only to the 33 patients that were tested. The fact that the study is blinded implies only that the patients were not influenced by the knowledge of receiving the injection that could provide relief.

The analysis of the data is preliminary and leaves room for additional questions that need to be addressed or clarified. Some of the patients, it is not clear how many, were given symptom-relieving medications. If the number of these patients is large, then it is no more clear whether the subcutaneous injections are effective or the medication is effective.

The study period was subdivided into three 2-week treatment sessions, each divided by a week off-treatment. A placebo was used for treatment during one of the 2-week treatment sessions. This design implies that the subcutaneous injection is effective for a period of 1 week. If this is not the case, one cannot aggregate the results of all tests, because they are not independent observations. Moreover, the results obtained after the placebo was administered are not "true" controls. The dose administered in previous weeks may still have an effect during the time the placebo was administered.

We believe OHTA's response clearly indicates that the studies are flawed and provide no basis for changing the exclusion of food allergy tests and treatments from Medicare coverage.

Comment: A number of commenters are concerned that private insurance companies will follow Medicare's lead and also exclude food allergy testing and treatment procedures from coverage. These commenters believe that affected individuals will not be able to afford the treatments.

Response: While we recognize that private health insurers sometimes adopted policies similar to those of Medicare, Medicare policies are applicable only to the Medicare program.

III. Provisions of this Final Notice

For the reasons stated in the above sections of this notice, we continue to exclude from Medicare coverage sublingual, intracutaneous, and subcutaneous provocative and neutralization testing and neutralization therapy for food allergies.

We issued instructions pertaining to the exclusion to HCFA fiscal intermediaries and carriers responsible for administering the Medicare program through the Coverage Issues Manual (HCFA Pub. 6) in May of 1989.

IV. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final notice that meets one of the E.O. criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all providers are treated as small entities; States and individuals are not considered small entities.

Some providers who routinely perform these food allergy tests and therapies will be affected to a degree by this notice; however, since relatively few Medicare beneficiaries receive these services, we do not believe that the number of providers significantly affected will be substantial. Accordingly, we believe that the impact of this notice both on Medicare program expenditures and on providers of service will be minimal.

Many commenters in the past have expressed concern that private insurance companies might follow Medicare's lead and also exclude food allergy testing and treatments from coverage. While private health insurers sometimes adopt policies similar to those of Medicare, Medicare coverage policies are applicable only to the Medicare program. Private insurers and other third party payers determine whether or not services are reimbursable based on their own coverage guidelines.

We are making this coverage decision on the basis of widely available medical evidence, as well as our statutory authority and policy precedents. This same medical evidence may be weighed differently by other insurers in light of their own guidelines. Thus, it would be speculative to attribute noncoverage of these services by any other insurer to this notice.

For these reasons, we have determined that a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this final notice will not have a significant economic impact on a substantial number of small entities, and therefore we have not prepared a regulatory flexibility analysis.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area.

We are not preparing a rural impact statement since we have determined, and the Secretary certifies, that this final notice will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

V. Collection of Information Requirements

This notice contains no information collection requirements. Consequently, this notice need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et sec.*).

Authority: Sec. 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance and No. 13.774, Supplementary Medical Insurance)

Dated: August 23, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: July 9, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-20501 Filed 8-29-90; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-90-3140]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

Scott Jacobs, OMB Desk Officer, Officer of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequently of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 17, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Good Faith Estimate and Special Information Booklet.

Office: Housing.

Description of the need for the information and its proposed use: Section 5 of the Real Estate Settlement Procedures Act (RESPA) requires lenders to provide borrowers the Special Information Booklet and the Good Faith Estimate of Settlement Costs that informs them of the nature and costs of real estate settlement services. Section 4 of RESPA requires settlement agents to provide the borrowers and the sellers a HUD-1 which sets forth all settlement costs.

Form number: HUD-1.

Respondents: Businesses or Other For-Profit.

Frequency of submission: On Occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Good Faith Estimate and HUD-1	20,000		173.5		.25		867,501

Total estimated burden hours: 867,501

Status: Extension.

Contact: Richard Harrington, HUD, (202) 708-2676; Scott Jacobs, OMB, (202) 395-6880.

Dated: August 17, 1990.

[FR Doc. 90-20495 Filed 8-29-90; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Part of the Reservation of the Miccosukee Tribe of Indians of Florida

July 31, 1990.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

SUMMARY: On July 31, 1990, by proclamation issued pursuant to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), and section 20 (b)(3) of the Act of October 17, 1988 (102 Stat. 2467, 25 U.S.C. 2701), the following-described tract of land, located in Dade County, Florida, was added to and made part of the Miccosukee Indian Reservation.

Tallahassee Meridian

Dade County, Florida

Section 1, Township 54 South, Range 38 East, commence at the point of intersection of the Westerly Right-of-Way line of State Road No. 27 as shown on Right of Way Map, Section No. 87070-2102, as recorded in Plat Book 68, at Page 1, of Public Records of Dade County, Florida with the Southeasterly Right-of-Way line of the South Florida Water Management District Levee L-30 as shown on South Florida Management District Levee L-30 Right of Way Map, Sheet 1 of 2, dated September 19, 1950; thence run South 04°06'51" West along the Westerly Right-of-Way boundary of said State Road No. 27 for a distance of 283.83 feet to a point of deflection; thence continuing along said Right-of-Way run South 04°08'08" East for a distance of 3238.63 feet to the Point of Beginning of the parcel of land hereinafter to be described; thence continue on the last described course for a distance of 580.00 feet to the point of intersection with the North boundary of the SE¼ of the SE¼ of the SE¼ of Section 1, Township 54 South, Range 38 East; thence run South 89°40'49.5" West along the last described line for a distance of 410.545 feet to the Northwest corner of said SE¼ of the SE¼ of the SE¼ of Section 1; thence run South 02°17'37" East along the West boundary of said SE¼ of the SE¼ of the SE¼ of Section 1 for a distance of 514.87 feet to the point of intersection with the North Right-of-Way boundary of South

Florida Water Management District Canal C-4 (Tamiami Canal) as shown on Drawing C-4-18, Sheet 1 of 5 sheets, dated July 1, 1976; thence run South 89°44'00" West along the last described line for a distance of 836.67 feet to a point; thence run North 00°16'00" West for a distance of 1154.33 feet to the point of intersection with the Southwesterly boundary of a 35 foot wide ingress and egress Easement thence run South 50°30'00" East along the last described line for a distance of 227.36 feet to the most Southerly corner thereof; thence run North 46°07'38" East along the Southeasterly boundary of said 35 foot wide ingress and egress Easement for a distance of 25.06 feet to a point; thence run North 85°51'52" East for a distance of 999.24 feet to the Point of Beginning.

The above described parcel contains a total of 25.00 acres, more or less which are subject to all valid rights, reservations, rights-of-way, and easement of record.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

Proclamation

By virtue of the authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467) and Section 20(b)(3) of the Act of October 17, 1988 (102 Stat. 2485; 25 U.S.C. 2701) and pursuant to the authority delegated to the Deputy Assistant Secretary—Indian Affairs under 209 DM 8.3A the trust land hereinafter described in Dade County, Florida are hereby proclaimed to be an Indian Reservation for the exclusive use and benefit of the Miccosukee Tribe of Indians of Florida.

Tallahassee Meridian

Dade County, Florida

Section 1, Township 54 South, Range 38 East, Commence at the point of intersection of the Westerly right-of-way line of State Road No. 27 as shown on Right of Way Map, Section No. 87070-2102, as recorded in Plat Book 68, at Page 1, of Public Records of Dade County, Florida with the Southeasterly Right-of-way line of the South Florida Water Managment District Levee L-30 as shown on South Florida Management District Levee L-30 Right of Way Map, Sheet 1 of 2, dated September 19, 1950; thence run South 04°06'51" West along the Westerly Right-of-Way boundary of said State Road No. 27 for a distance of 283.83 feet to a point of deflection; thence continuing along said Right-of-Way run South 04°08'08" East for a distance of 3238.63 feet to the Point of Beginning of the parcel of land hereinafter to be described; thence continue on the last described course for a distance of 580.00 feet to the point of intersection with the North boundary of the SE¼ of the SE¼ of the SE¼ of Section 1, Township 54 South, Range 38 East; thence run South 89°40'49.5" West along the last described line for a distance of 410.545 feet to the Northwest corner of said SE¼ of the SE¼ of the SE¼ of Section 1; thence run South 02°17'37" East along the West Boundary of said SE¼ of the SE¼ of the SE¼ of Section 1 for a distance of 514.87 feet to the point of intersection with the North Right-of-Way Boundary of South Florida Water Management District Canal C-4 (Tamiami Canal) as shown on Drawing C-4-18, Sheet 1 of 5 sheets, dated July 1, 1976; thence run South 89°44'00" West along the last described line for a distance of 836.67 feet to a point; thence run North 00°16'00" West for a distance of 1154.33 feet to the point of intersection with the Southwesterly boundary of a 35-foot wide ingress and egress Easement thence run South 50°30'00" East along the last described line for a distance of 227.36 feet to the most Southerly corner thereof; thence run North 46°07'38" East along the Southeasterly boundary of said 35-foot wide ingress and egress Easement for a distance of 25.06 feet to a point; thence run North 85°51'52" East for a distance of 999.24 feet to the Point of Beginning.

The above described parcel contains a total of 25.00 acres, more or less which are subject to all valid rights, reservations, rights-of-way, and easements of record.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 90-20417 Filed 8-29-90; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CO-010-87-4332-10]

Road Closure: White River Resource Area, Colorado; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of road closure.

SUMMARY: The **Federal Register** Notice dated July 31, 1990 (Doc. 90-17740) identifying a road closure in the White River Resource Area contained errors in the legal description and incorrectly identified 17.8 miles of road that would be open with restrictions.

The correct legal descriptions for the road closure are as follows:

Township 4 North, Range 102 West
Sections 7, 8, 17, 18, 19, 20
Township 4 North, Range 103 West
Sections 10, 11, 12, 13, 14, 15, 23, 24
Township 5 North, Range 102 West
Sections 31, 32, 33
Township 5 North, Range 103 West
Sections 24, 25, 26, 35

Certain roads totaling 26.2 miles, within these legals will be closed to all motorized vehicular traffic.

All other information identified in the July 31, 1990 notice, remains the same.

Dated: August 22, 1990.

B. Curtis Smith,

Area Manager, White River Resource Area.

[FR Doc. 90-20492 Filed 8-29-90; 8:45 am]

BILLING CODE 4310-84-M

[UT-048-00-4211-10]

Environmental Assessment Proposed Action Within Wilderness Study Area; Escalante Resource Area; Utah

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of availability of a draft environmental assessment for a proposed action within the Steep Creek Wilderness Study Area.

ADDRESS: To obtain a copy of the environmental assessment for the proposed title V Right-of-Way, contact George Peternel, Area Manager, Escalante Resource Area, P.O. Box 225, Escalante, Utah 84726, or telephone (801) 826-4291.

SUMMARY: The Bureau of Land Management, Cedar City District, is proposing to issue a title V, FLMPA Right-of-Way to Clive Kincaid to construct a road approximately 50 feet in length on the edge of the Steep Creek Wilderness Study Area.

COMMENTS: Comments will be accepted until October 1, 1990.

Dated: August 24, 1990.

Gordon Staker,

District Manager.

[FR Doc. 90-20482 Filed 8-29-90; 8:45 am]

BILLING CODE 3510-60-M

[CO-010-00-4320-02]

Craig District Grazing Advisory Board Meeting; Colorado

Time and Date: October 11, 1990 at 10 a.m.

Place: Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

Status: Open to public, interested persons may make oral statements between 10 a.m. and 11 a.m., or may file written statements.

Matters to be Considered:

1. Election of officers.
2. Riparian task force update.
3. Little Snake Coordinated Management Plan.
4. Status report on FY'90 range improvement projects.
5. Area reports.
6. Expenditures of Grazing Advisory Board Funds.

Contact Person for More Information: John Denker, Craig District office, 455 Emerson Street, Craig, Colorado 81625-1129, Phone: (303) 824-8261.

Dated: August 22, 1990.

William J. Pulford,

District Manager.

[FR Doc. 90-20487 Filed 8-29-90; 8:45 am]

BILLING CODE 4310-JB-M

[UT-040-09-4322-02]

Cedar City District Grazing Advisory Board Meeting; Utah

Notice is hereby given in accordance with Public Law 992–463 that a meeting and field tour of the Cedar City District Grazing Advisory Board will be held on September 26 and 27, 1990. The meeting will begin at 10:30 a.m. at the Escalante BLM Area Office, Escalante, Utah.

A meeting will begin with a field tour of the Escalante Resource Area south and south east of Escalante on Wednesday September 26, 1990. At 8 a.m. Thursday September 27, 1990 a meeting will be held at the Escalante Area Office. Agenda items will include election of Board officers, drought, recently completed and proposed range treatment projects, public statements, animal damage control, and general Board business. Those planning to attend the field trip should provide their own lunch and transportation.

Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be heard at 9 a.m. Thursday 27 September, 1990. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 179 East DL Sargent Drive, Cedar City, Utah 84720, phone (801) 586–2401, by Friday September 21, 1990. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Dated: August 24, 1990.

Gordon R. Staker,

District Manager.

[FR Doc. 90–20481 Filed 8–29–90; 8:45 am]

BILLING CODE 4310-DQ-M

[UT 080-07-4322-02]

Meetings: Vernal District Grazing Advisory Board

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Vernal District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92–463, that a meeting of the Vernal District Grazing Advisory Board will be held Thursday, October 11, 1990, commencing at 8 a.m. The meeting will be held in the District Office conference room at 170 South 500 East, Vernal, Utah.

The agenda items will include: (1) Review of Minutes; (2) Review of Charter and Organization of Board; (3) Diamond Mountain Resource Area Management Plan; (4) FY90 and FY91 Resource Improvement Work and Proposals; (5) Predator and Pest Control; (6) Riparian Area Management; (7) Status of Range Program-Policy and Trends; (8) Interrelation of Livestock Grazing with Wildlife, Wild Horses, and Other Uses; (9) Management of White River Corridor; (10) Book Cliffs Conservation Initiative; (11) Drought Conditions and Grazing Adjustments; (12) Items from the Public.

The meeting is open to the public. Interested parties wishing to participate or present a statement should notify the District Manager at the above-mentioned address or phone him at (801) 789-1362, no later than October 11, 1990.

Penelope J. Smalley,

Acting District Manager.

[FR Doc. 90–20418 Filed 8–29–90; 8:45 am]

BILLING CODE 4310-DQ-M

[MT-060-00-4333-11]

Montana Off-Road Vehicle Designation

August 22, 1990.

AGENCY: Bureau of Land Management—Lewistown District, Interior.

ACTION: Notice to limit off-road vehicle use on public lands.

SUMMARY: Notice is hereby given that effective immediately the use of off-road vehicles (ORVs) is limited on public lands within the Chain Buttes/Dunn Ridge area, in northern Petroleum County, Montana. This will be in effect during the bird and big game hunting season as established by the Montana Department of Fish, Wildlife and Parks, Petroleum County, Montana, in accordance with the authority and requirements of regulation 43 CFR 8364.1.

DATES: This designation will only be in effect during the bird and big game hunting season. The designation will terminate on December 1, 1990.

FOR FURTHER INFORMATION CONTACT: Wayne Zinne, District Manager, Bureau of Land Management (BLM), 80 Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The 92,810 acre area is administered by the BLM, Judith Resource Area, Lewistown District. This designation is the result of a cooperative effort among BLM, private landowners, U.S. Fish and Wildlife Service, and Montana Department of Fish, Wildlife and Parks. The purpose of the designation is to prevent damage to soil, vegetative, and scenic resources, to open additional private and state lands for hunting, and to reduce landowner/recreationist conflicts so as to provide a higher quality hunt.

The off-road vehicle limitation area is located in northern Petroleum County, Montana it includes all public lands administered by the BLM north of the Crooked Creek and Dunn Ridge roads.

Hunting within the described block will be subject to the following restrictions:

1. No travel off of designated routes.
2. Camps involving motorized travel must be within 100 yards of designated routes
3. Limitations and regulations as found in 43 CFR 8340 apply.

Dated: August 20, 1990.

Wayne Zinne,

District Manager.

[FR Doc. 90–20490 Filed 8–29–90; 8:45 am]

BILLING CODE 4310-DN-M

[NM-010-433-13/GPO-0119]

Albuquerque District, NM; Temporary Off-Road Vehicle Closure on Public Lands Near Espanola, NM

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Temporary one-year closure to off-road vehicle use of approximately 520 acres of public lands in the Arroyo Seco-La Puebla area near Espanola, New Mexico.

SUMMARY: A temporary closure to motorized vehicles will go into effect on September 1, 1990, on approximately 520 acres of public lands contained within a 680 acre block of public lands in Sections 7 and 8, T. 20 N., R. 9 E., NMPM, in the Arroyo Seco-La Puebla area. The closure will be in effect for one year, allowing the BLM to work with local residents and users of off-road vehicles to work out a long-term resolution of the conflicts created by vehicle use in this area. Recognizing the need to provide lands for vehicle play in the vicinity, a smaller portion of public lands covering about 160 acres in Sections 7 and 8, T. 20 N., R. 9 E., NMPM, locally known as the Motocross area, will remain open to vehicle use on existing trails. The affected areas will be signed at all key access points on September 1.

Under the authority of 43 CFR 8341.2(a) the public lands as described above are closed to off-road/off-highway vehicle use, except for emergency vehicles, fire suppression and rescue vehicles, BLM operation and maintenance vehicles, other Federal, State or local agency vehicles in the performance of an official duty and

other motorized vehicles on official business specifically approved by the authorized officer of the Bureau of Land Management. This action complies with regulations contained in 43 CFR part 8341. Persons who violate the closure may be subject to fines of not more than $1,000 or imprisonment for not longer than 12 months, or both.

Over the past three years, off-road vehicle use has been increasing significantly in the Espanola Valley, north of Santa Fe, New Mexico. In the Arroyo Seco-La Puebla area, vehicle use off of roads or trails is causing serious damage to soils and vegetation, and may also be disturbing wildlife and unsurveyed cultural and paleontological sites. Off-road vehicle use is also causing serious conflicts with adjacent property owners through noise and dust generated by vehicle activity.

Maps of the affected area are available for public inspection at the Bureau of Land Management's Office in Santa Fe, 1474 Rodeo Road, and in Taos at 224 Cruz Alta Road.

DATES: Effective September 1, 1990.

FOR FURTHER INFORMATION CONTACT: John Bailey, Supervisory Outdoor Recreation Planner, Taos Resource Area, 224 Cruz Alta Road, Taos, New Mexico 87571. Phone (505) 758-8851.

Dated: August 20, 1990.

Robert T. Dale,

District Manager.

[FR Doc. 90-20419 Filed 8-29-90; 8:45 am]

BILLING CODE 4310-FB-M

[OR-943-00-4130-12; GPO-367; OR-7920]

Conveyance of Public Lands; Order Providing for Opening of Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 3,719.95 acres of public land out of Federal ownership. This action will also open 3,360.55 acres of reconveyed lands to surface entry and 1,400.20 acres to mining and mineral leasing. Of the balance, the mineral estate on 320 acres is not in Federal ownership, and 1,640.35 acres have been and continue to be open to mining and mineral leasing.

EFFECTIVE DATE: October 9, 1990.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716, a patent has been issued transferring 3,719.95 acres in Malheur County, Oregon, from Federal to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 22 S., R. 38 E.,
sec. 24, W½NW¼, SW¼, and S½SE¼;
sec. 25, E½.
T. 23 S., R. 38 E.,
sec. 1, lots 1, 2 and 4, S½N½, and S½;
sec. 3, S½NW¼ and SW¼;
sec. 9, NE¼;
sec. 10, W½ and SE¼;
sec. 12, W½E½, N½NW¼, SW¼NW¼, and SE¼SW¼;
sec. 13, NE¼NW¼;
sec. 15, N½ and SE¼;
sec. 22, W½NE¼;
sec. 23, NW¼NW¼ and S½N½;
sec. 24, NE¼NE¼ and S½NE¼.

The areas described aggregate 3,360.55 acres in Malheur County.

3. The minerals are not in Federal ownership in the E½NE¼ and SE¼, Sec. 15, and the W½NE¼, Sec. 22, T. 23 S., R. 38 E., and are not open to location and entry under the United States mining laws.

4. At 8:30 a.m., on October 9, 1990, the lands described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on October 9, 1990, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m., on October 9, 1990, the following described lands will be opened to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts;

Willamette Meridian

T. 22 S., R. 38 E.,
sec. 24, W½W½, SE¼SW¼, and SW¼SE¼;
sec. 25, W½NE¼.
T. 23 S., R. 38 E.,
sec. 1, lots 1 and 2, S½NE¼, SW¼NW¼, NE¼SW¼, and SE¼;
sec. 10, SE¼NW¼, NE¼SW¼, and SE¼;
sec. 12, W½E½ and SE¼SW¼;
sec. 13, NE¼NW¼;
sec. 15, W½NE¼;
sec. 24, E½NE¼ and SW¼NE¼.

6. At 8:30 a.m., on October 9, 1990, the lands described in paragraph 5 will be opened to applications and offers under the mineral leasing laws.

Dated: August 22, 1990.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-20494 Filed 8-29-90; 8:45 am]

BILLING CODE 4310-33-M

[WY-930-00-4214-10; WYW 73370]

Cancellation of Proposed Withdrawal and Opening Order; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: The Bureau of Land Management has relinquished a 1981 withdrawal application affecting 1,550.00 acres of public land in the Bennett Peak Recreation Area. The purpose of the withdrawal was to protect the outdoor recreational values and wildlife habitat. A smaller withdrawal proposal will be pursued at a later date. The segregative effect of this proposed withdrawal terminated on June 1, 1985.

This action opens the land to all forms of appropriation under the mining laws. The land has been and will remain open to appropriation under the public land laws and to mineral leasing.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001, 307-775-6115.

1. Notice of an application, Serial Number Wyoming 73370, for withdrawal and reservation of land was published in the **Federal Register** on January 2, 1981, page 171-172. The Bureau of Land Management cancelled its application in its entirety.

2. The land to be opened as a result of this cancellation is described as follows:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 82 W.,
Sec. 14, NE¼, N½NW¼, N½SE¼NW¼, N½NW¼SE¼, SE¼NW¼SE¼, NE¼SE¼;
Sec. 15, NW¼SW¼NE¼, S½SW¼NE¼, SE¼NW¼, SE¼SW¼NW¼, SW¼, W½E¼, W½SE¼;

Sec. 23, S½S½NE¼, S½SE¼NW¼, NE¼SW¼, S½SW¼, N½SE¼;
Sec. 26, N½, N½S½, S½SW½, SW¼SE¼.
The area described contains 1,500.00 acres in Carbon County.

3. At 9:30 a.m. on October 1, 1990, the land will be open to location under the United States mining laws. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 22, 1990.

John A. Naylor,

Chief, Branch of Land Resources.

[FR Doc. 90-20485 Filed 8-29-90; 8:45 am]

BILLING CODE 4310-22-M

[AZ-020-00-4212-15; AZA 23648-03]

Realty Actions: Initial Classification of Public Lands for State Indemnity Selection, Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

REALTY ACTION: Initial classification of public lands for State Indemnity Selection, Arizona.

1. Pursuant to title 43 Code of Federal Regulations (CFR), subpart 2400; and section 7 of the Act of June 28, 1934; and the Enabling Act of June 20, 1910 (36 Stat. 557) as amended, the public lands described below are hereby classified for State Indemnity Selection.

2. The notice of proposed classification of these lands was published on June 28,1990 in Vol. 55, No. 125, page 26514 and was widely publicized. Comments received were supportive and the lands are being classified as proposed.

3. The lands hereby classified contain 1434.28 acres legally described as follows:

Gila and Salt River Meridian

Maricopa County

T. 1 N., R. 7 W.,
sec. 2, lots 2 to 4, incl., SW¼NE¼, S½NW¼, N½SW¼.
T. 2 N., R. 7 W.,
sec. 7, lots 1 to 4, incl., E½, E½W½.
T. 2 N., R. 8 W.,
sec. 12, E½.
T. 3 N., R. 4 W.,
sec. 1, N½N½.

4. This classification decision is based on disposal criteria of 43 CFR 2400: Pursuant to 43 CFR 2430.2b, the lands are found to be chiefly valuable for public purposes. The state has filed applications to receive these lands in compensation for land taken by the Bureau of Reclamation for construction of the Central Arizona Project.

5. The following holders of section 3 grazing permits have been given notification in accordance with 43 CFR 4110.4-2(b). Their affected grazing use will be terminated two years from the notification if the lands are transferred to the state.

Grazing permittees	Allotment No.
Empire Southwest Company	3034
George Hazelton, Edna Herrara	3015
Frieda Leavell	3058
Douglas Land Corporation/Marketic	3026

Threatened and endangered species, mineral potential and cultural resource evaluations have been approved for the subject lands.

The public land will be conveyed subject to the following terms and conditions:

1. Subject to Mountain States Telephone and Telegraph Company right-of-way AR 031315.

2. Reserving to the United States a right-of-way thereon for ditches or canals constructed by authority of the United States, Act of August 30, 1890, (43 U.S.C. 945).

The public lands classified by this notice are shown on maps on file and available for inspection in the Phoenix District Office. Information may be obtained from Barbara Ahearn, Realty Specialist, at (602) 863-4464.

For a period of 30 days from the date of publication in the **Federal Register**, this classification shall be subject to exercise of administrative review and modification by the State Director as provided for in 43 CFR 2461.3 and 2462.3.

Dated: August 24, 1990.

Charles R. Frost,

Associate District Manager.

[FR Doc. 90-20483 Filed 8-29-90; 8:45 am]

BILLING CODE 4310-32-M

[CA-050-09-4212-13, CA CA 26012]

Realty Action, Tehama County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; determination of suitability and exchange of public and private lands in Tehama County.

SUMMARY: The following described lands are being exchanged under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716)

M.D.M., T. 28 N., R. 2. W.,
Section 4, SWNE, SWNW, 80± acres
Section 6, NESE, S½SE, 120± acres
Section 8, E½NE, 80± acres
Comprising 280 acres more or less

In exchange for the above lands in Tehama County, the United States will acquire the following described lands in Tehama County from Nordic Trucking, Inc.

M.D.M., T. 28 N., R. 2 W.,
Section 6, SESW
Section 7, Lots 1, 2 and 3 portion of, NENW, SENW portion of
M.D.M., T. 28 N., R. 3 W.,
Section 12, SENE, NESE portion of
Comprising 249 acres more or less

DATES: This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands proposed for exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first.

ADDRESSES: Detailed information concerning this action is available for review at the Office of Bureau of Land Management, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002.

FOR FURTHER INFORMATION CONTACT: Howard Matzat at the Redding Resource Area.

SUPPLEMENTAL INFORMATION: The purpose of this exchange is to acquire non-federal lands which have high public values for riparian and upland habitats adjacent to the Sacramento River Management Area, and Paynes Creek, a salmon and steelhead stream. In exchange the Bureau will be disposing of four parcels of land, three of which are land locked and one bisected by Highway 36.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment of funds not to exceed 25 percent of the total value of lands transferred out of federal ownership, or an adjustment in acres exchanged will be made.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

With reservations for:

1. A right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1990.
2. Oil and Gas to the United States
3. Right-of-Way S 063681 to California Dept. of Transportation for a Federal Aid Highway.
4. Right-of-Way S 3409 to State of California for road purposes.
5. Right-of-Way per FPC 0 9/22/1930 WDL PWR Pro 1121. For electrical lines transmission lines maintained by Pacific Gas and Electric Company.

Subject to:

1. Right-of-Way CA 17847 to Pacific Gas and Electric Company for a gas transmission line.
2. Right-of-Way S 075951 to Pacific Gas and Electric Company for a gas transmission line.
3. Right-of-Way CA CA 22885 to Nordic Trucking Inc. for an access road.

FOR FURTHER INFORMATION: Information concerning this exchange is available from the Redding Resource Area Office, 355 Hemsted Dr., Redding, California 96002; (916) 246–5325. For a period of forty-five (45) days interested parties may submit comments to Mark Morse, Area Manager, at the above listed address.

Francis C. Berg,

Acting Area Manager.

[FR Doc. 90–20477 Filed 8–29–90; 8:45 am]

BILLING CODE 4340–10–M

[NM 940–00–4730–12]

New Mexico; Filing of Plat of Survey

August 13, 1990.

The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on September 24, 1990.

A dependent resurvey of a portion of the second standard parallel north, a portion of the west boundary, and a portion of the subdivision lines, and the subdivision of sections 5 and 6, Township 8 North, Range 6 East, Indian Meridian, Oklahoma, for Group 54 OK. This survey was requested by the Bureau of Indian Affairs, Muskogee Area Office, Muskogee, Oklahoma.

A dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, and the subdivision of section 4, Township 13 South, Range 26 East, New Mexico Principal Meridian, New Mexico, for Group 861 NM. This survey was requested by the District Manager, Roswell District Office, Roswell, New Mexico.

A dependent resurvey of a portion of the subdivisional lines, the subdivision of section 25 and 26, and the survey of the northerly right-of-way of Eddy County Road No. 418 through sections 25 and 26, Township 25 South, Range 24 East, New Mexico Principal Meridian, New Mexico, for Group 884 NM. This survey was requested by the District Manager, Roswell District Office, Roswell, New Mexico.

A dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 18, and certain small holding claim boundaries, and the survey of certain lot boundaries in section 18, Township 4 South, Range 1 East, New Mexico Principal Meridian, New Mexico, for Group 768 NM. This survey was requested by the Socorro Area Office.

A dependent resurvey of the north boundary of Township 13 South, Range 12 East, New Mexico Principal Meridian, New Mexico for Group 730 NM. This survey as requested by Area Director, Bureau of Indian Affairs (BIA), Albuquerque, New Mexico.

A dependent resurvey of a portion of the south boundary, and portions of the subdivisional lines, and the subdivision of section 27, Township 19 South, North, Range 2 West, New Mexico Principal Meridian, New Mexico, for Group 859 NM. This survey was requested by the Deputy State Director, Division of Operations, New Mexico State Office, Santa Fe, Mew Mexico.

These plats will be in the open files of the New Mexico State Office. Bureau of Land Management, P.O. Box 1449, Santa Fe, Mew Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

John P. Bennett,

Chief, Branch of Cadastral Survey.

[FR Doc. 90–20479 Filed 8–29–90; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–930–00–4214–10; AR–031307]

Withdrawal of Application, Termination of Segregation; AZ

August 14, 1990

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal of application, termination of segregative effect.

SUMMARY: The U.S. Department of the Interior, Bureau of Reclamation, has agreed to the cancellation of part of application AR–031307 insofar as it affects 602.21 acres of public land in Maricopa County west of Phoenix. This notice terminates the segregation imposed by the application and opens the land to disposal by State Selection under the Act of June 20, 1910, as amended.

EFFECTIVE DATE: August 30, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602–640–5509.

SUPPLEMENTARY INFORMATION: On February 19, 1962, the Bureau of Reclamation filed application AR–031307 for the withdrawal of certain public land in support of the Central Arizona Project (CAP). At the time of application the land was segregated from all forms of entry pending final action. The Bureau of Reclamation has determined certain lands within application AR–031307 are no longer needed for the CAP and has by memorandum dated May 31, 1988, agreed to relinquish the 602.21 acres identified in this notice..

Withdrawal application AR–031307 is hereby cancelled in part and the segregation imposed on the following described land is hereby terminated:

Gila and Salt River Meridian

T. 2 N., R. 8 W.,
Sec. 11, Lot 1, NE¼, NE¼NW¼, S½NW¼,
Sec. 12, W½NE¼, SE¼NE¼, S½SW¼N E¼NE¼, NW¼,

The area described totals 602.21 acres in Maricopa County.

John H. Stephenson,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 90–20422 Filed 8–29–90; 8:45 am]

BILLING CODE 4310–32–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–293]

Certain Crystalline Cefadroxil Monohydrate; Provisional Acceptance of Petition To Modify Limited Exclusion Order and Cease and Desist Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has provisionally accepted a petition to modify the limited exclusion order and a cease and desist order issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1087.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as amended by the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418 (Aug. 23, 1988), and in § 211.57 of the Commission's Interim Rules of Practice and Procedure (19 CFR 211.57).

On March 15, 1990, the Commission concluded the above-captioned investigation by determining that a violation of section 337 existed and by issuing a limited exclusion order and cease and desist orders. The limited exclusion order excludes from entry into the United States crystalline cefadroxil monohydrate capsules and crystalline cefadroxil monohydrate bulk powder covered by claim 1 of U.S. Letters Patent 4,504,657 ("the '657 patent") manufactured abroad by three named firms and their related entities. The cease and desist orders prohibit their recipients from marketing, distributing, offering for sale, selling, or otherwise transferring in the United States imported crystalline cefadroxil monohydrate that is covered by claim 1 of the '657 patent. Because the President did not disapprove the Commission's orders within the 60-day period specified in section 337(j), they became final on May 14, 1990.

On July 30, 1990, respondents Biocraft Laboratories, Inc. ("Biocraft") and Gema, S.A. ("Gema"), jointly filed a Petition to Modify the Limited Exclusion Order and Cease and Desist Order pursuant to § 211.57 of the Commission's interim rules. Gema is one of the three firms named in the limited exclusion order; Biocraft is subject to a cease and desist order. Biocraft and Gema seek to amend the limited exclusion order and the cease and desist order issued to Biocraft expressly to permit importation of cefadroxil monohydrate for the purpose of submitting data to the Food and Drug Administration (FDA).

The Commission has determined to provisionally accept the Biocraft/Gema petition. Pursuant to 19 CFR 211.57(b), each former party to the original Commission investigation may file an answer to the petition within thirty (30) days after service of the petition by the Commission. Because the issues raised by the petition are solely legal in nature and do not involve questions of fact, the Commission intends to consider the petition directly without assignment to an administrative law judge.

Copies of the petition and all other nonconfidential documents filed in connection with this investigation are or will be available for inpsection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

Issued: August 24, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–20425 Filed 8–29–90; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 26)]

Intrastate Rail Rate Authority, Oklahoma

AGENCY: Interstate Commerce Commission.

ACTION: Notice of certification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission certifies the State of Oklahoma to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: The certification will be effective August 30, 1990, and will expire August 30, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar: (202) 275–7245, [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: By decision served July 18, 1989, the State of Oklahoma, through the Oklahoma Corporation Commission (Oklahoma), was granted continued provisional certification to regulate intrastate railroad rates, classifications, rules, and practices under 49 U.S.C. 11501(b). That decision provided that, if a properly revised application were filed, approval would be automatic and no further decision would be issued. On July 14, 1990, Oklahoma filed the required revisions. Oklahoma's final 5-year certification begins upon this publication in the **Federal Register**.

Decided: August 22, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–20498 Filed 8–29–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

August 24, 1990.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 514–4312.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB,

Department of Justice, Washington, DC 20530.

Extension of Expiration Date of a Currently Approved Collection Without any Change in Substance or in Method of Collection

Special Note:

The I–538, Application By Nonimmigrant Student for Extension of Stay, School Transfer, and Permission To Accept or Continue Employment or Practical Training, has been submitted to OMB. This request is for a three month extension of expiration date to provide time to review the numerous public comments received on the proposed rule, "Nonimmigrant Classes, Student Employment Authorization Procedures," (8 CFR parts 214 and 274a) published in the **Federal Register**, Volume 55, No. 135, Friday, July 13, 1990. The comment period ended August 13, 1990. It is the intent of the Immigration and Naturalization Service to review all public comments and consider the concerns of all affected individuals as an intergal part of the revision process prior to the issuance of the new I–538. Accordingly, this extension would supply additional time to finalize the final rule and allow for the design of the I–538, as required.

(1) Application To File Petition in Behalf of Child.

(2) N–402, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Used by the Immigration and Naturalization Service to determine eligibility and to make appropriate recommendations to the Naturalization Court for a child (natural or adopted) being petitioned for by the United States citizen parent.

(5) 10,500 estimated responses at .5 hours per response.

(6) 5,250 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) Petition for Temporary Resident Status as a Replenishment Agricultural Worker (RAW).

(2) I–805. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This information will be used by the INS to determine whether a person is admissable into the United States as an immigrant and eligible for RAW status according to the eligibility requirements of the proposed regulations.

(5) 300,000 annual respondents at .5 hours per response.

(6) 150,000 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Revision of a Currently Approved Collection

(1) Compliance Monitoring Report.

(2) No form number. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

(3) Annually.

(4) State or local governments. This medium is used to collect information from States participating in the JJDP Act formula grant program. The monitoring report provides the only measurement of States' compliance with the major mandates of the Act, and to answer public inquiries and to assist the Congress, OJJDP and the States in planning juvenile justice system improvements.

(5) 57 estimated annual responses at 3 hours per response, with an estimated recordkeeping burden of 145 hours per respondent.

(6) 8,436 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Existing Collection in Use Without an OMB Control Number

(1) Formula Grant Application and Drug Strategy Information.

(2) No form number. Bureau of Justice Assistance, Office of Justice Programs.

(3) Annually.

(4) State or local government. Information is provided by 56 States and territories as part of their application for drug control and system improvement formula grant funds. Data is also collected on the drug problem used in developing State strategy which is a part of the application.

(5) 56 estimated annual responses at 102 hours each.

(6) 5,712 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) Survey of Inmates of State Correctional Facilities (Pre-Test Only).

(2) NPS–23, 24, 25, 27, 28. Bureau of Justice Statistics, Office of Justice Programs.

(3) One time pretest. Survey held every five years.

(4) Individuals or households, State or local governments. This survey will be used to profile State prison inmates nationwide; to determine trends in inmate composition, criminal histories and drug abuse; and to report on the victims of crime. The data will be used by the BJS, the Congress, researchers, practitioners and others in the criminal justice community.

(5) 200 estimated annual respondents (pretest) at .75 hours each.

(6) 150 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 90–20461 Filed 8–29–90; 8:45 am]

BILLING CODE 4410–18–M

Federal Bureau of Investigation

Meeting: Data Providers Advisory Policy Board (APB); Uniform Crime Reporting (UCR)

The UCR APB will meet on September 10 and 11, 1990, from 9 a.m. until close of business each day at the Hilton Hotel, 3101 Airport Boulevard, Mobile, Alabama 36606.

The major topics of discussion will be the current implementation status of the National Incident-Based Reporting System, Federal participation in UCR, implementation status of the Hate Crime Statistics Act which became law April 23, 1990, and was delegated to the FBI on July 3, 1990, for collection of the statistics, status and discussion of the future of the UCR Program, requests from various users of UCR data, and the status of APB input regarding the "Law Enforcement Officers Killed and Assaulted" publication.

The meeting will be open to the public with approximately 25 seats available on a first-come, first-served basis. Any member of the public may file a written statement with the APB before or after the meeting. Anyone wishing to address a session of the meeting should notify the Committee Management Liaison Officer, FBI, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, or hand-delivered note. It should contain their name, corporate or Government designation, and consumer affiliation, along with the capsulized version of the statement and an outline of the material to be offered. A person will be allowed not more than 15 minutes to present a topic, except with the special approval of the Chairperson of the Board.

Inquiries may be addressed to Mr. J. Harper Wilson, Committee Management Liaison Officer, Information Management Division, Federal Bureau of Investigation, Washington, DC 20535, telephone number (202) 324–2614.

Dated: August 28, 1990.

William S. Sessions,

Director.

[FR Doc. 90–20420 Filed 8–29–90; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act (JTPA): JPTA Native American Programs' Advisory Committee; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration, the Secretary of Labor has determined that the renewal of the Job Training Partnership Act (JTPA) Native American Programs' Advisory Committee is in the public interest in regard to the consultation responsibilities imposed on the Department under title IV, section 401 of JTPA.

The Committee will provide advice to the Assistant Secretary for Employment and Training on rules, regulations and performance standards specifically and solely for Native American programs authorized under title IV, section 401 of JTPA. The Assistant Secretary seeks this advice, as one of several means of consultation with the Native American community, in order to develop such rules, regulations and performance standards. The Committee will provide the Assistant Secretary with a summary report of the advice offered on these matters following its scheduled meetings.

As paragraph 401(h)(1) of JTPA directs, the Committee shall be comprised of representatives of the Native American community. An equitable geographic distribution will be sought in addition to appropriate representation of both tribes and non-tribal organizations. The members shall not be compensated and shall not be deemed to be employees of the United States.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter has been filed under the Act concurrently with this publication.

Interested persons are invited to submit comments regarding the renewal of the JTPA Native American Programs' Advisory Committee. Such comments should be sent to:

Mr. Paul A. Mayrand, Director, Office of Special Targeted Programs, U.S. Department of Labor, Employment and Training Administration, room N-4641, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 535-0500.

Signed at Washington, DC, this 24th day of August 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-20505 Filed 8-29-90; 8:45 am]

BILLING CODE 5410-30-M

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

Meeting

AGENCY: The Martin Luther King, Jr. Federal Holiday Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463 as amended, the Martin Luther King, Jr. Federal Holiday Commission announces a forthcoming meeting of the Commission.

DATE: October 3, 1990.

TIME: 1:00-3:00 p.m.

LOCATION: U.S. Capitol, Room S-207, Washington, DC.

TOPICS TO BE ADDRESSED: Review of Commission Activities for 1991 Reports from Committees of the Commission Financial Report.

FOR FURTHER INFORMATION CONTACT: Madeline Y. Lawson, the Martin Luther King, Jr. Federal Holiday Commission, Washington, DC 20410 (202) 708-1005.

Dated: August 23, 1990.

Madeline Y. Lawson,

Deputy Executive, Director.

[FR Doc. 90-20503 Filed 8-29-90; 8:45 am]

BILLING CODE 4210-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-71]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by October 1, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D. A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (270-0003), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 755-1430.

Reports

Title: NASA Contractor Financial Management Reports.

OMB Number: 2700-0003.

Type of request: Extension.

Frequency of report: MO, QU.

Type of respondent: Businesses or other for-profit.

Number of respondents: 2500.

Responses per respondent: 14.

Annual responses: 15,400.

Hours per response: 12.

Annual burden hours: 184,800.

Abstract—need/uses: The NASA Form 533 series is the basic financial management medium for reporting data needed by project management for evaluation of contractor cost as it relates to schedule and technical performance; and reporting actual and projected data assuring that contractor performance is realistically planned and supported by dollar resources.

Dated: August 22, 1990.

D.A. Gerstner,

Director, IRM Policy Division.

[FR Doc. 20471 Filed 8-29-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90-72]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and

approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's) supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATES: Comments are requested by October 1, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D.A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0040), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 755–1430.

Reports

Title: STS Request for Flight Assignment.
OMB Number: 2700–0040.
Type of Request: Extension.
Frequency of Report: As required.
Type of Respondent: State and local governments, businesses or other for-profit, federal agencies or employees, non-profit institutions, small businesses or organizations.
Annual Responses: 20.
Hours per Responses: .5.
Annual Burden Hours: 10.
Abstract-Need/Uses: The NASA Form 1628 details the users shuttle launch request. This information includes: Payload title, principal contact, requested launch date, payload weight and length, and orbital requirements.

Dated: August 22, 1990.

D.A. Gerstner,

Director, IRM Policy Division.

[FR Doc. 90–20472 Filed 8–29–90; 8:45 am]

BILLING CODE 7510–01–M

[Notice 90–73]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATES: Comments are requested by September 10, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: D.A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0007) Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 755–1430.

Reports

Title: Radioactive Material Transfer Receipt.
OMB Number: 2700–0007.
Type of Request: Extension.
Frequency of Report: As required.
Type of Respondent: Business or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.
Number of respondents: 50.
Responses per respondent: 10.
Annual Responses: 500.
Hours per response: .5.
Recordkeeping hours: 40.
Annual Burden Hours: 290.
Abstract-Need/Uses: The Nuclear Regulatory Commission has authorized NASA to use radioactive material at temporary job sites throughout the U.S. for research and development purposes as well as launching of space vehicles. This report furnishes NASA with the necessary records on the possession, location, and use of radioactive materials.

Dated: August 22, 1990.

D.A. Gerstner,

Director, IRM Policy Division.

[FR Doc. 90–20473 Filed 8–29–90; 8:45 am]

BILLING CODE 7510–01–M

[Notice (90–70)]

NASA Advisory Council (NAC), Exploration Science Working Group (EXSWG); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Exploration Science Working Group (EXSWG).

DATES: September 18, 1990, 8:30 a.m. to 4:30 p.m.; September 19, 1990, 8:30 a.m. to 4:30 p.m.; and September 20, 1990, 8:30 a.m. to 12 noon.

ADDRESSES: Hyatt Arlington Hotel, Ravensworth Ballroom Center, 1325 Wilson Boulevard, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Dr. Carl Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1509).

SUPPLEMENTARY INFORMATION: The Exploration Science Working Group reports to Space Science and Applications Advisory Committee (SSAAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on identifying and addressing science issues associated with human exploration missions to the Moon and Mars. The Group will meet with representatives of the Synthesis Group to discuss interactions between EXSWG and the Synthesis Group and future EXSWG activities. The Group is chaired by Dr. David C. Black and is composed of 19 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the Group). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Tuesday, September 18

8:30 a.m.—Opening Remarks.
9 a.m.—Interaction with Synthesis Group.
1 p.m.—Continue Examination of Synthesis Group Activities.
4:30 p.m.—Adjourn.

Wednesday, September 19

8:30 a.m.—Review of Draft EXSWG Synthesis Statement.

10 a.m.—Science Activities and Relationship to Space Exploration Initiative.
1 p.m.—Discussion of Space Exploration Initiative Requirements and their Relationship to the Office of Space Science and Applications Program.
3 p.m.—Discussion of Future EXSWG Activities and Subgroups.
4:30 p.m.—Adjourn.

Thursday, September 20

8:30 a.m.—Review of Draft EXSWG Recommendations.
10 a.m.—Review of the Office of Aeronautics, Exploration and Technology.
12 noon—Adjourn.

Dated: August 24, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-20474 Filed 8-29-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice (90-69)]

Advisory Committee on the Future of the U.S. Space Program; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Advisory Committee on the Future of the U.S. Space Program (hereafter referred to as the "Advisory Committee").

DATES: September 13, 1990, 8 a.m. to 5 p.m.; September 14, 1990, 8 a.m. to 5 p.m.; and September 15, 1990, 8:30 a.m. to 2 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 7002, Federal Office Building 6, 400 Maryland Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Bain, Code ADA-1, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2409.

SUPPLEMENTARY INFORMATION: The Vice President, in his capacity as head of the National Space Council, has determined that it is appropriate for the National Aeronautics and Space Administration to establish the Advisory Committee to look into the future of the U.S. space program. The Advisory Committee will report to the Vice President and the NASA Administrator on the future of the U.S. space program, to include various projects, objectives, and methods to implement those projects and objectives for the coming decades. The Advisory Committee is chaired by Mr. Norman R. Augustine and is composed of 12 members, selected from a cross section of qualified individuals with an extensive knowledge of space activities and broad technical and managerial expertise.

This meeting will be closed to the public from 3 p.m. to 5 p.m. on September 13 and from 3 p.m. to 5 p.m. on September 14 for discussions of NASA programs, personnel, and policies. Such a discussion would invade the privacy of the individuals involved. On September 15, the meeting will be closed to the public from 10:45 a.m. to 2 p.m. to control the premature disclosure of matters discussed in connection with the work of the Advisory Committee. Since these sessions will be concerned with matters listed in 5 U.S.C. 552b(c)(6) and 522b(c)(9)(B), it has been determined that the sessions be closed to the public for these periods of time. The remainder of the meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Advisory Committee members and other participants. Members of the public may send written comments regarding the work of the Advisory Committee to Mr. Norman R. Augustine, Chairman and Chief Executive Officer, Martin Marietta Corporation, 6801 Rockledge Drive, Bethesda, MD 20817.

TYPE OF MEETING: Open—except for closed sessions as noted in the agenda below.

Agenda

Thursday, September 13, 1990

8 a.m.—Introductory Remarks.
8:15 a.m.—NASA Overview and Discussion.
10:30 a.m.—NASA Program Presentations and Discussion.
3 p.m.—Closed Session—Discussion of NASA Program and Personnel.
5 p.m.—Adjourn.

Friday, September 14, 1990

8 a.m.—Continuation of NASA Program Presentations and Discussion.
3 p.m.—Closed Session—Discussion of NASA Program and Personnel.
5 p.m.—Adjourn.

Saturday, September 15, 1990

8:30 a.m.—Discussion of Work of Selected Previous Commissions on NASA Issues.
10:45 a.m.—Closed Session—Discussion of Principal Topics and Organization for Study.
2 p.m.—Adjourn.

Dated: August 24, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-20475 Filed 8-29-90; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

Florida Power Corp. Issuance of Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DRP-72, issued to the Florida Power Corporation (the Licensee), for operation of the Crystal River Unit 3 Nuclear Generating Plant, located in Crystal River, Florida.

Identification of Proposed Action

The amendment would consist of changes to the Technical Specifications (TS) and would authorize an increase of the storage capacity of the spent fuel pool from 1153 fuel assemblies to 1357 fuel assembles.

The amendment to the TS is responsive to the licensee's application dated October 31, 1989, as supplemented January 25, 1990, March 8, 1990 and June 21, 1990. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Expansion of the Spent Fuel Pool, Facility Operating License No. DPR-72, Florida Power Corporation, Crystal River Unit 3 Nuclear Generating Plant, Docket No. 50-302," dated August 23, 1990.

Summary of Environmental Assessment

The "Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG-0575), Volumes 1-3, concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the difference in design, the FGEIS recommended evaluating spent fuel pool expansions on a case-by-case basis.

For Crystal River Unit 3, the expansion of the storage capacity of the

spent fuel pool will not create any significant additional radiological effects or nonradiological environmental impacts.

The additional whole body close that might be received by an individual at the site boundary and the estimated dose to the population within an 80 kilometer radius is believed to be too small to have any significance when compared to the fluctuations in the annual dose this population receives from exposure to background radiation. The occupational radiation does for the proposed operation of the expanded spent fuel pool is estimated to be less than three percent of the total annual occupational radiation exposure for this facility.

The only nonradiological impact affected by the spent fuel pool expansion is the waste heat rejected. The total increase in heat load is rejected to the environment will be small in comparison to the amount of total heat currently being released. There is no significant environmental impact attributed to the waste heat from the plant due to this very small increase.

Finding of No Significant Impact

The staff has reviewed the proposed spent fuel pool expansion to the facility relative to the requirement set forth in 10 CFR part 51. Based on this assessment, the staff concludes that there are no significant radiological or nonradiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, no environment impact statement needs to be prepared for this action.

For further details with respect to this action, see (1) The application for amemdment to the Technical Specifications dated October 31, 1989, as supplemented January 25, 1990, March 8, 1990 and June 21, 1990, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for the Crystal River Unit 3 Nuclear Generating Plant dated May 1973, and (4) the Environmental Assessment dated August 23, 1990.

These documents are available for public inspection at the Commission's Public Document Room 2120 L Street, NW., Washington, DC 20555 and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida 32629.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects–I/II, Office of the Nuclear Reactor Regulations.

[FR Doc. 90–20508 Filed 5–29–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–425]

Georgia Power Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission is considering issuance of an exemption from the requirement of footnote d–2(c) of appendix A to 10 CFR part 20 to the Georgia Power Company, et al. (the licensee) for the Vogtle Electric Generating Plant, Unit 2 (VEGP Unit 2) located on the licensee's site in Burke County, Georgia.

Environmental Assessment

Identification of proposed action

The proposed action would relax the requirement in footnote d–2(c) of appendix A to 10 CFR part 20 which states, "No allowance is to be made for the use of sorbents against radioactive gases or vapors." The exemption would allow the use of radioiodine protection factor of 50 for certain respiratory protection canisters used by workers at the licensee's facility, VEGP Unit 2. The Commission's technical evaluation of this request will be published in a report entitled "Safety Evaluation Related to the Use of Radioiodine Protection Factor for Sorbent Canisters at Vogtle Electric Generating Plant, Unit 2."

The evaluation responds to the licensee's application for exemption dated September 28, 1989.

The Need for the Proposed Action

The proposed exemption is needed because the use of the sorbent canisters described in the licensee's request can potentially reduce occupational exposure to radiation for some tasks at VEGP Unit 2.

Environmental Impacts of the Proposed Action

The proposed exemption will most likely reduce the work effort and occupational exposure for some tasks at VEGP Unit 2. The utilization of air purifying respirators in lieu of air-supplied or self-contained apparatuses, where possible, can result in person-rem reductions estimated overall at 30% for tasks requiring radioiodine protection and in the range of 25% to 50% for several major tasks. The light weight, less cumbersome air purifying respirators (i.e., sorbent canisters) can provide increased comfort and mobility in most cases, and result in increased work efficiency and decreased time on-the-job.

With regard to potential radiological impacts to the general public, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect the potential for, or consequences of, radiological accidents and does not affect radiological plant effluents. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Because the Commission's staff has concluded that there is no significant environmental impact associated with the proposed exemption, any alternative to this exemption will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the operation of the Vogtle Electric Generating Plant, Units 1 and 2," dated March 1985.

Agencies and Persons Consulted

The Commission's staff has reviewed the licensee's request that supports the proposed exemption. The staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for the exemption

dated September 28, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Burke County Library, 412 4th Street, Wynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 22nd day of August 1990.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–3, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–20510 Filed 8–29–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

Sacramento Municipal Utility District; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. DPR–54 issued to the Sacramento Municipal Utility District (the licensee), for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, California.

Environmental Assessment

Identification of Proposed Action

The proposed exemption, from 10 CFR 50.47 and appendix E to 10 CFR part 50, would relieve the licensee from the requirements to: (1) Conduct biennial offsite full participation emergency preparedness exercises, (2) test the emergency siren system and (3) disseminate offsite emergency related public information.

The Need for the Proposed Action

The proposed exemption would reduce licensee expenditures and preserve the resources of local, state, and Federal organizations that participate in offsite emergency exercises. At the present time the Rancho Seco reactor is defueled. The postulated offsite emergencies that necessitate participation by the offsite emergency organizations and require action by the general public are based on emergency scenarios associated with the power operations. The licensee has defueled the reactor and intends to decommission the Rancho Seco nuclear facility. Based on the existing conditions at the site and on the proposed site disposition, the emergency preparedness requirements identified above do not warrant the associated expenditure of resources. Should the licensee decide to activate the site as a nuclear power station in the future, the emergency preparedness qualifications would need to be reinstated as a prerequisite.

Environmental Impact of the Proposed Action

The proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than that previously determined. The proposed exemption does not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no sigificant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts associated with present level of plant activities.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Enviornmental Statement related to the operation of the Rancho Seco Nuclear Generating Station, dated March 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request that supports the proposed exemption, and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated July 24, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

Dated at Rockville, Maryland, this 22d day of August 1990.

For the Nuclear Regulatory Commission.

John T. Larkins,

Acting Director, Project Directorate V, Division of Reactor Projects–III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–20509 Filed 8–29–90; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses to Export Nuclear Material

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the applications for licenses to export nuclear-grade graphite as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning these applications follows.

NRC EXPORT LICENSE APPLICATIONS

Name of applicant, date of appl., date received, application No.	Description of items to be exported	Country of destination
Hi-Mark Research Ltd. 08/09/90 08/09/90 XMAT0350	240,000 kgs of Bulk Nuclear Grade Graphite for use as Electrode Material for Electrical Discharge Machining.	Korea.
Hi-Mark Research Ltd. 08/09/90 08/09/90 XMAT0352	40,000 kgs of Bulk Nuclear Grade Graphite for use as Electrode Material for Electrical Discharge Machining.	West Germany.

Dated this 22 day of August 1990 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Acting Assistant Director for International Security, Exports and Materials Safety, International Programs, Office of Governmental and Public Affairs.

[FR Doc. 90-20415 Filed 8-29-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co. (Calvert Cliffs Nuclear Power Plant, Units 1 and 2); Exemption

I

The Baltimore Gas and Electric Company (BG&E/licensee) is the holder of Facility Operating License Nos. DPR-53 and DPR-69, which authorize operation of the Calvert Cliffs Nuclear Power Plant, Units 1 and 2 (the facilities). The licenses provide, among other things, that the facility are subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Calvert County, Maryland.

II

On November 19, 1980, the Commission published a revised § 50.48 and a new appendix R to 10 CFR part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50-48 and appendix R became effective on February 17, 1981. Section III of appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.J, is the subject of the licensee's exemption request.

Section III.J of appendix R to 10 CFR part 50, requires that emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

By letter dated June 29, 1990, the licensee requested an exemption from the requirements of section III.J of appendix R to 10 CFR part 50. Specifically, the requested exemption pertains to the use of portable handlights of the rechargable type with an 8-hour rating as alternative to permanently installed 8-hour emergency lighting. The requested exemption is only for locations within the Unit 1 and Unit 2 containments.

The Commission may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are: (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2)(ii) of 10 CFR part 50 indicates that special circumstances exist when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

III

The proposed exemption is needed as the result of the licensee's investigation of the deficiencies identified in its Licensee Event Report (LER) 50-317/89-09. Several deficiencies were noted in the existing post-fire alternative shutdown procedure (AOP-9), resulting in additional areas being identified, inside the containments of both units, which require emergency lighting to allow operators to access necessary equipment for safely shutting down the units subsequent to a fire in accordance with the revised AOP-9. Specifically, it is necessary to operate auxiliary spray valves, loop charging isolation valves, safety injection tank isolation valves, and shutdown cooling return isolation valves. The actions occur at various times during post-fire shutdown activities with the first containment entry occurring at approximately 4 hours after the initiation of the event. In order to comply with the section III.J requirement, emergency lighting would need to be installed to illuminate both the valves and the access paths to them.

The licensee has proposed providing portable handlights for use in containment but which would be staged outside of the containments. Specifically, the portable handlights will be of the recharging type with an 8-hour duration. The portable handlights will be kept in recharging units and subject to a constant charge. Access to the portable handlights will be physically and administratively limited to operations personnel for emergency use. The portable handlights will be tested on the same frequency as the other emergency lights at these facilities.

The licensee has identified several advantages of the portable handlights in relation to permanently installed emergency lighting within the containments. The fixed emergency lighting, per section III.J of appendix R, must have an 8-hour duration. Assuming that a loss of offsite power occurs at the onset of the event, the 8-hour duration would not be adequate for all the containment entries needed and portable handlights would be needed in any event. The portable handlights to be used have a rated duration of 8-hours. During the loss of off-site power, only the charger would be deenergized; the portable handlights will have a full 8-hour charge when initially used. It has been estimated that for all containment entries during the worst-case situation, the total time in containment would be approximately 4 hours. Therefore, the handlights would provide an ample duration of illumination.

The type of portable handlight to be used is similar to those used by fire departments. It will provide greater illumination levels where the operator is actually walking and working since fixed emergency lighting is subject to shadows caused by both obstructions (which are nearly impossible to avoid in containment) and the operator himself. These shadows are avoided by the use

of the portable handlights. The wide base design of the portable light is stable when placed on most surfaces and the beam is adjustable. Since containment entries will be performed by two people, both of whom will be provided with the portable lights, improved illumination will be available.

The environment inside containment can be challenging to fixed battery powered emergency lights due to the high heat and humidity conditions. The potential for their failure will increase the longer they are exposed to these conditions. This potential decrease in reliability would increase the need for periodic testing which is not practical while the reactor is at power. Inspections of the fixed lighting units only during outages would not be sufficient to assure their operability. The portable handlights can be physically checked for operability prior to use, as well as on a normal test frequency. Therefore, the portable handlights will provide a greater level of reliability.

In consideration of the as low as reasonably achieveable (ALARA) criteria for worker exposure, the installation of the emergency lights and associated conduit inside containment would result in considerable exposure to the workers. However, testing of the lights would result in the greatest exposure. If the emergency lights are installed inside the containment, the quarterly inspections would either require at-power entries or a policy of not testing the lights except during unit outages. In a location outside the containment, portable handlights would be tested at the same frequency as the other plant emergency lights with a minimal exposure rate to workers. Also, contaminated waste will be generated during the installation of any fixed emergency lighting, during replacement, and as the result of required inspection tours.

Based on the above evaluation, the staff concludes that application of the regulation in these particular circumstances is not necessary to achieve the underling purpose of appendix R to 10 CFR part 50. The licensee's alternative use of portable handlights in lieu of installed emergency lighting provides equivalent levels of illumination, a more reliable light source, and will be adequate for the performance of post-fire safe shutdown actions required inside of the containments.

Therefore, an exemption to the requirements of section III.J of appendix R in relation to the installation of emergency lighting should be granted.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) The exemption as described in section III is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and (2) in this case, special circumstances are present in that application of the regulation is not necessary to achieve the underlying purpose of appendix R to 10 CFR part 50.

Accordingly, the Commission hereby grants the exemption from the requirements of section III.J of appendix R to 10 CFR part 50 regarding emergency lighting being provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. This exemption is only applicable to locations within the Unit 1 and Unit 2 containments.

Pursuant to 10 CFR 51.32, the Commission had determined that the granting of this exemption would have no significant effect on the quality of the human environment (55 FR 33390, August 15, 1990).

A copy of the licensee's request for exemption dated June 29, 1990, is available for public inspection at the Commission's Public Document Room, in the Gelman Building, Lower Level, 2120 L Street, NW, Washington, DC, and at the Calvert County Public Library, Prince Frederick, Maryland. Copies may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention, Director, Division of Reactor Projects—I/II.

This Exemption is effective upon issuance.

Dated at Rockville, Maryland, this 22nd day of August 1990.

For the Nuclear Regulatory Commission.

Steven A. Verga,

Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-20507 Filed 8-29-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-148]

The University of Kansas; Consideration of Application for Renewal of Facility License

The U.S. Nuclear Relgulatory Commission (the Commission) is considering renewal of Facility License No. R-78, issued to the University of Kansas for the possession-only license for the University of Kansas Reactor located on the University's campus in Lawrence, Kansas.

The renewal would extend the expiration date of Facility License No. R-78 to January 1, 1995, in accordance with the licensee's timely application for renewal dated December 12, 1989, as supplemented on July 12, 1990. The license if a possession-only type which allows the licensee to possess but not operate the facility. All fuel has been removed from the facility and returned to its owner, the Department of Energy. The licensee is developing a plan to decommission the facility, and it is anticipated that the term of renewal will be sufficient to complete decommissioning and terminate the license.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By October 1, 1990, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to

which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in providing the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, at 2120 L Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325–6000 (in Missouri 1 (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss: petitioner's name and telephone number; date petition was mailed; The University of Kansas; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Ann Victoria Thomas, General Counsel, 227 Strong Hall, The University of Kansas, Lawrence, Kansas 66045, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated December 12, 1989, as supplemented on July 12, 1990, which is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 23rd day of August 1990.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulations.

[FR Doc. 90–20511 Filed 8–29–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Proposed Policy Letter on Government-Wide Small Business and Small Disadvantaged Business Goals for Procurement Contracts

August 23, 1990.

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: The Office of Management and Budget (OMB) is requesting comments on a proposed new Office of Federal Procurement Policy (OFPP) Policy Letter that establishes Government-wide goals for small business and small disadvantaged business.

SUMMARY: This proposed Policy Letter would establish two Government-wide goals for procurement contracts, one for contract awards to small business concerns and another for contract awards to small business concerns owned or controlled by socially and economically disadvantaged individuals. It would also establish additional reporting requirements to facilitate monitoring achievement of the Government-wide goals.

The policy is being published pursuant to the direction of the Congress, as expressed in sections 502 and 503 of the Business Opportunity Development Reform Act of 1988, Public Law 100–656. Authority to issue this policy was delegated by the President to the Director of the Office of Management and Budget. (See delegation memorandum published in the **Federal Register** on July 3, 1990, 55 FR 27453–27455.)

DATES: Comments must be received on or before October 1, 1990.

ADDRESSES: Comments should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, room 9025, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert L. Neal, Deputy Associate Administrator, Office of Federal Procurement Policy, 725 17th Street, NW., Washington, DC 20503. Telephone (202) 395–6810.

Allan V. Burman,

Administrator.

Policy Letter No. 90–X

To the Heads of Executive Departments and Establishments

Subject: Government-Wide Small Business and Small Disadvantaged Business Goals for Procurement Contracts.

1. *Purpose.* The purpose of the policy letter is to provide uniform policy guidance to Executive branch departments and agencies regarding the implementation of sections 502 and 503 of Public Law 100–656, the Business Opportunity Development Reform Act of 1988. Section 502 amends section 15(g) of the Small Business Act (15 U.S.C. 644(g)) to require the President to annually establish two Government-wide goals for procurement contracts, one for contract awards to small business concerns and another for contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals. Section 503 revises section 15(h) of the Small Business Act (15 U.S.C. 644(h)) to establish additional reporting requirements that facilitate monitoring achievement of the Government-wide goals.

2. *Authority.* This policy letter is issued pursuant to sections 502 and 503 of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656), and section 6 of the Office of Federal Procurement Act, 41 U.S.C. 405, which empowers the Administrator of the Office of Federal Procurement Policy (OFPP) to prescribe Government-wide procurement policies.

3. *Background.* Currently, agencies, in consultation with the Small Business Administration (SBA), develop annual goals for the participation of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in contracts awarded by Federal agencies. SBA monitors agency performance and reports such achievements to Congress. Section 502 of the "Business Opportunity Development Reform Act of 1988" requires the establishment of two Government-wide goals for contract awards. Section 503 of the Act requires SBA to report the agencies' actual achievement of these goals to the President for inclusion in his State of Small Business Report.

4. *Policy.* For small business concerns, a Government-wide goal of awarding 20 percent of the total value of all prime contract awards to small business concerns for each fiscal year is established. The Government-wide goal for small business concerns owned and controlled by socially and economically disadvantaged individuals shall be 5 percent of the total value of all prime contract and subcontract awards for each fiscal year. For the purposes of this program, small business concerns owned and controlled by socially and economically disadvantaged individuals shall be considered a subset of small businesses and, therefore, prime contract awards to such concerns shall be counted towards achievement of the small business goal.

5. *Agency Reporting.* Agencies shall submit reports to SBA regarding goal achievement that will contain the following:

(a) Agency goals for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals and their actual levels of participation.

(b) The number and dollar value of contracts awarded to small business concerns and small business concerns that are owned and controlled by socially and economically disadvantaged individuals through:

(1) Noncompetitive negotiation,

(2) Competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals,

(3) Competition restricted to small business concerns, and

(4) Unrestricted competitions.

(c) The number and dollar value of subcontracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

(d) The number and dollar value of prime contracts and subcontracts awarded to women-owned small business enterprises.

(e) An analysis of any failure to achieve the agency goal(s) and what actions are planned to achieve the goal(s) in the succeeding fiscal year.

(g) Other categories contained in SBA's Guidelines on Goals Under Procurement Preference Programs.

6. *Responsibilities.* This policy shall be implemented through SBA's annual request for small business goals, entitled "Guidelines on Goals Under Procurement Preference Programs". Appropriate changes shall be made to the aforementioned document to accommodate the policy. Each department or agency, in consultation with SBA, shall continue to establish an annual goal that represents the estimated maximum practicable opportunity for small businesses to participate in the performance of contracts let by such agency. OFPP and SBA will be responsible for ensuring that the cumulative annual prime contract goals for all agencies meet or exceed the annual Government-wide prime contract goal established.

7. *Applicability.* This letter is applicable to Federal contracts. It is not applicable to Federal grants.

8. *Information Contract.* Information about this policy may be obtained by contracting Robert L. Neal, Jr., Office of Federal Procurement Policy, (202) 395–6810.

9. *Effective Date.* October 1, 1990.

10. *Review Date.* This policy will be reviewed within 3 years from the date of issuance.

Dated: August 23, 1990.

Allan V. Burman,

Administrator.

[FR Doc. 90–20421 Filed 8–29–90; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the National Critical Technologies Panel

The National Critical Technologies Panel (NCTP) will meet on September 14, 1990. This meeting will be held at the National Science Foundation, room 540, 1800 G Street NW., Washington, DC. The Panel will start its deliberations at 8 a.m. and will conclude around 5 p.m.

The purpose of this Panel is to prepare and submit to the President a biennial report on national critical technologies no later than October 1st of even-numbered years. These are to be the product and process technologies the Panel deems most critical to the U.S., and shall not exceed 30 in number in any one year.

Proposed Agenda:

(1) Presentation by The Analytical Sciences Corporation (TASC) on assessment of methodology, criteria, and commonalities of previous studies on critical technologies performed by other government agencies and public interests groups.

(2) Discussion of preliminary technology taxonomy lists; rationale, and other issues, by OSTP staff.

(3) Definition of criteria to be applied in selecting technologies.

Portions of this meeting will be closed to the public.

In order to be effective in its deliberations, an open flow of information containing privileged or confidential material of commercial or financial nature, must exist between the Panel members and with members of the private sector who brief the Panel. This will necessitate the closure of some portions of the meeting to the Public, according to 5 U.S.C. 522b.(c)(4).

Persons wishing to attend the open portion of this meeting should contact Mr. J.L. Christian, at (202) 395–5736, prior to September 12, 1990. Specific information regarding time, place, and agenda for the open sessions will be made available upon request.

Dated: August 23, 1990.

William G. Wells,

Consultant to the Director, Office of Science and Technology Policy.

[FR Doc. 90–20521 Filed 8–29–90; 8:45 am]

BILLING CODE 3170–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

U.S.-Bulgaria Trade and Investment Agreements

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Request for written comments in connection with the negotiation of trade and investment agreements with the People's Republic of Bulgaria.

SUMMARY: The Trade Policy Staff Committee (TPSC) is seeking the views of interested parties in connection with the negotiation of trade and investment agreements with the People's Republic of Bulgaria. The TPSC invites written comments which address (1) The economic impact of granting most-favored-nation (MFN) treatment (i.e., column 1 rates of duty) to products from the People's Republic of Bulgaria, and (2) problems encountered or anticipated by U.S. entities in conducting trade and investment activities in the People's Republic of Bulgaria or with Bulgarian entities.

FOR FURTHER INFORMATION CONTACT: Daniel Price, Office of the General Counsel, USTR on (202) 395–6800 or Gordana Earp, Deputy Assistant U.S. Trade Representative for Eastern European Affairs, USTR, on (202) 395–3074.

SUPPLEMENTARY INFORMATION:

I. General

The conclusion of a trade agreement with the People's Republic of Bulgaria is a prerequisite under Title IV of the Trade Act of 1974, as amended, to the extension of MFN treatment to the products of the People's Republic of Bulgaria. We also intend to begin discussions on an investment agreement.

The TPSC has begun to formulate the U.S. Government's positions for such trade and investment agreements and to draft agreement texts, and is seeking the views of all interested parties concerning the negotiation of such agreements.

II. Written Comments

Written comments are invited on (1) The economic impact of granting MFN treatment to products from the People's Republic of Bulgaria, and (2) problems encountered or anticipated by U.S. entities in conducting trade and investment activities in the People's Republic of Bulgaria or with Bulgarian entities.

All comments should be submitted in 20 copies, by noon September 20, 1990, to Carolyn Frank, Secretary, TPSC, room 517, 600 Seventeenth Street, NW., Washington, DC 20506.

Any submissions which include business confidential material must be clearly marked as such on the cover page (or letter) and succeeding pages. Such submissions must be accompanied by a nonconfidential summary. Nonconfidential information received will be available for public inspection by appointment in the USTR Reading Room, room 101, 600 Seventeenth Street, NW., Washington, DC, Monday through Friday, 10 a.m. to 12 noon and 1 p.m. to 4 p.m. For an appointment, call Brenda Webb on (202) 395–6186.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 90–20552 Filed 8–29–90; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

August 24, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

American Opportunity Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6105)
Connecticut Energy Corp.
Common Stock, $0.01 Par Value (File No. 7–6106)
Future Germany Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6107)
Geneva Steel Corp.
Common Stock, No Par Value (File No. 7–6108)
GT Greater Europe Fund
Common Stock, $0.01 Par Value (File No. 7–6109)
Indonesia Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6110)
Japan OTC Equity Fund, Inc.
Common Stock, $0.10 Par Value (File No. 7–6111)
Morrison Knudsen Corporation
Common Stock, $3.50 Par Value (File No. 7–6112)
Northfork Bancorporation, Inc.
Common Stock, $2.50 Par Value (File No. 7–6113)
Nuveen Market Opportunity Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6114)
Rhone-Poulenc SA
Preferred "A" Stock, No Par Value (File No. 7–6115)
Rhone-Poulenc SA
Warrants (Expiring 12/31/92) (File No. 7–6116)
Santa Fe Energy Resources, Inc.
Common Stock, $0.01 Par Value (File No. 7–6117)
St. Joe Paper, Co.
Common Stock, No Par Value (File No. 7–6118)
Abode Resources
Preferred "A" Stock, $20.00 Par Value (File No. 7–6119)
Aileen Incorporated
Common Stock, $1.00 Par Value (File No. 7–6120)
Diana Corp.
Common Stock, $1.00 Par Value (File No. 7–6121)
Emerging Germany Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6122)
Europe Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6123)
Fingerhut Companies, Inc.
Common Stock, $0.01 Par Value (File No. 7–6124)
Jakarta Growth Fund
Common Stock, $0.10 Par Value (File No. 7–6125)
Kimmins Environmental Service Corp.
Common Stock, $0.001 Par Value (File No. 7–6126)
Merry-Go-Round Enterprises, Inc.
Common Stock, $0.01 Par Value (File No. 7–6127)
Playboy Enterprises, Inc.
Class "A" Stock (File No. 7–6128)
RLI Corporation
Common Stock, $1.00 Par Value (File No. 7–6129)
Safeway Stores Inc.
Warrants (File No. 7–6130)
Signal Apparel Co.
Common Stock, $0.01 Par Value (File No. 7–6131)
Tacoma Boat Building
Common Stock, $0.01 Par Value (File No. 7–6132)
Vista Resources, Ltd.
Common Stock, $2.50 Par Value (File No. 7–6133)
Wahlco Environmental Systems, Inc.
Common Stock, $0.01 Par Value (File No. 7–6134)
Americus Trust for Dow Chemical
Prime Component, No Par Value (File No. 7–6135)
Americus Trust for Dow Chemical
Score Component, No Par Value (File No. 7–6136)
Americus Trust for Eastman Kodak
Prime Component, No Par Value (File No. 7–6137)
Americus Trust for Eastman Kodak
Score Component, No Par Value (File No. 7–6138)
Home Shopping Network, Inc.
Common Stock, $0.01 Par Value (File No. 7–6139)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 17, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–20447 Filed 8–29–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34-28375; File No. SR-NYSE-90-33]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc. Relating to a System Whereby the Exchange Would Make Available a Specified Portion of the Limit Orders for Securities Included on the Display Books

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is herby given that on July 19, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make available to securities information vendors and "self-vending" member organizations and other financial institutions (collectively, "customers") a specified portion of the limit orders for securities included on the Display Books ("Look-at-the-Book Information").[1]

Look-at-the-Book will make available, for a security included on the Display Book, eight prices around the current market, with total buy/sell limit order quantities. In effect, Look-at-the-Book will make available one page of the display book. The NYSE currently plans to provide this information for fifty securities.[2]

Look-at-the-Book Information will be made available to customers on a non-exclusive basis. The Exchange will not be responsible for any cost or expense, or for providing any circuit, necessary for a customer to receive or retransmit Look-at-the-Book Information.

The Exchange will make Look-at-the-Book Information available to customers in "magazine" or "page" format through the facilities of the Securities Industry Automation Corporation ("SIAC"). Customers will supply their own equipment and communications lines for placement at one of the SIAC operational sites. The Exchange will use a new system to extract Look-at-the-Book Information from the Exchange's Display Book system and forward that information to customers.

Look-at-the-Book Information will be available on a periodic basis during the trading day. Initially, the Exchange will make Look-at-the-Book Information available three times per day: at the opening of trading, around midday and at the close of trading.

Customers may display Look-at-the-Book Information in the same "magazine" or "page" format in which they receive it. Customers also may retransmit that information internally and to their subscribers.

Initially, the Exchange will not impose any fees for access to Look-at-the-Book Information, but the Exchange reserves right to do so in the future. Any fees imposed by the Exchange shall be filed with the Commission pursuant to section 19 of the Act.

The Exchange will make Look-at-the-Book Information available through different facilities than it uses for other data dissemination and communications purposes, thereby assuring that the facilities that make Look-at-the-Book Information available will not adversely affect the capacity or operation of any other Exchange system.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose*—The purpose of the proposed rule change is to foster the widespread dissemination of limit orders included on the Exchange's Display Books. By broadening the distribution of limit order information to market participants such as brokers, dealers and investors, the Exchange hopes to improve the efficiency and effectiveness of market operations and to enhance the ability of market participants to make informed investment decisions.

(b) *Basis*—The proposed rule change is designed to promote the objectives of section 6(b)(5) under the Act. By making available information regarding limit orders on an equal basis to all customers, the proposed rule change will advance the objectives of section 6(b)(5) that an exchange have rules designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. The broad dissemination of limit order information will provide market participants with an opportunity to access market information that is valuable in making informed investment decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants Or Others

The Exchange has not received any written comments from members or other interested parties relating to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, will subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to

[1] The term "Look-at-the-Book" is a service mark of the Exchange.

[2] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE to Mary Revell, Branch Chief, Commission, Dated August 16, 1990.

the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-33 and should be submitted by September 20, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 24, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-20506 Filed 8-29-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28367; File No. SR-NYSE-90-29]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Exchange Rule 345 Regarding Employees—Registration, Approval, and Records

On June 12, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder,[2] a prposed rule change to amend several subsections of Exchange Rule 345 to ensure full disclosure of the information reported on Form U-5.

The proposed rule change was published for comment in Securities Exchange Act Release No. 28178 (July 3, 1990), 55 FR 2849238 (July 11, 1990). No comments were received on the proposal.

Exchange Rule 345.17 presently requires members to report to the Exchange the discharge or termination of any registered person by submitting to the Exchange, or its agent, a Form U-5 (Uniform Termination Notice For Securities Industry Registration) [3] within 30 days of the registered person's temination date. The Exchange proposes to add a provision to this rule that would require a member to provide a copy of Form U-5 to the terminated person, at the same time as the original termination notice is submitted to the Exchange.

The Exchange also proposes to amend Rule 345.17 to require that an amended Form U-5 be filed with the Exchange, with a copy to the terminated person, in the event a member learns of facts or circumstances that would cause the original Form U-5 to become incomplete or inaccurate.[4]

Exchange Rule 345.11 currently requires that investigations be conducted of the previous records of prospective employees of member organizations. The proposed rule change would add a new provision to Rule 345.11(a) to require that, in instances where an applicant was previously registered with the Exchange or other SRO that required its members to provide a copy of a Form U-5 to its terminated registered persons, a member must obtain from the applicant a copy of his or her Form U-5 filed by the most recent employer to be reviewed in connection with the member's investigation of the applicant. Under the proposed change, the member would be required to obtain the Form U-5 from the applicant no later than 60 days after the applicant files for registration or the member must demonstrate to the Exchange that it has made reasonable efforts to comply with this requirement.

In addition, the Exchange proposes a new subsection (b) to Rule 345.11 which would require an applicant, in response to a request for the applicant's Form U-5 from a member, to provide the Form U-5 to the member within two business days. If the employer has failed to supply an applicant with a Form U-5, the applicant must promptly request it from the employer and provide it to the requesting member within two business days of receiving it. An applicant also would be required to provide any amendments to the Form U-5 to the requesting member.

The Exchange believes that the circumstances of a termination, as disclosed on Form U-5, are relevant to the hiring decision as to prospective employees and should be available to members of that purpose. Similarly, terminated persons should have access to information reported on a Form U-5 to check for accuracy and completeness and to be given the opportunity to express disagreement with the information contained on a Form U-5 to a subsequent employer.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of sections 6(b)(5) and 6(c)(3) of the Act.[5] In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of the exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and

The Commission believes that the new information requirements to correct an incomplete or inaccurate Form U-5 should assist the Exchange in its responsibility under section 6(c) of the Act to deny membership to those subject to a statutory disqualification or who cannot meet such standards of training, experience, and competence as are prescribed by the rules of the exchange or those who have engaged in acts or practices inconsistent with just and equitable principles of trade.[6]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] Forms U-5, which are employed in connection with the National Association of Securities Dealer's ("NASD") Central Registration Depository ("CRD") system, are used by the various securities self-regulatory organizations ("SROs") as part of their registration and oversight of member organization personnel and contain information relating to the circumstances surrounding the prior termination of an applicant's employment.

[4] This new provision would be added to Rule 345.17 as new subparagraph (b).

[5] 15 U.S.C. 78f(b)(5) and (c)(3) (1982). manipulative acts, and, in general, to protect investors and the public, in that providing members with additional relevant information regarding a prospective registered person should help the member to make a more informed hiring decision. At the same time, allowing a terminated person to review the statements made on the Form U-5 should help ensure the accuracy and completeness of the statements made on the form. In addition, the Commission believes that the proposed rule changes will assist the Exchange in its oversight of industry personnel by providing more accurate and timely reporting of information. This in turn will serve to protect investors by helping the Exchange to maintain high standards among its members.

[6] The Commission recently approved similar rule changes submitted by the National Association of Securities Dealers, Inc. ("NASD"). *See* Securities Exchange Act Release No. 27826 (March 20, 1990), 55 FR 11282 (March 27, 1990) (approving File No. SR-NASD-90-4). For example, the NASD amended Form U-5 to include a Disclosure Reporting Page ("DRP") and a reminder to NASD members of their continuing obligation under the NASD By-Laws to amended Form U-5 to report changes in the status of a reportable matter until a final disposition is reached.

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1989).

Dated: August 23, 1990.

Jonathan G. Katz,

Secretary.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-20444 Filed 8-29-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28366; File No. SR-NYSE-90-28]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Revised Uniform Application for Securities Industry Registration or Transfer (Form U-4) and Uniform Termination Notice for Securities Industry Registration (Form U-5)

On June 1, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to revise the Uniform Application for Securities Industry Registration or Transfer [Form U-4) and the Uniform Termination Notice for Securities Industry Registration (Form U-5).

The proposed rule change was published for comment in Securities Exchange Act Release No. 28179 (July 3, 1990), 55 FR 28490 (July 11, 1990). No comments were received on the proposal.

1. Description of the Proposal

Over the last several years, the North American Securities Administrators Association ("NASAA"), the National Association of Securities Dealers, Inc. ("NASD"), the NYSE, and other self-regulatory organizations ("SROs") have worked together to streamline and improve Forms U-4 and U-5, which are used by the SROs in conjunction with the registration and oversight of member organization personnel.[3] Forms U-4 and U-5 are employed in connection with the NASD's Central Registration Depository ("CRD"), an automated system which allows SROs to monitor the continuous and frequent entry, movement, and departure of individuals in the securities industry, as well as changes in their employment histories.

a. Revisions to Form U-4

The NYSE proposes various changes in the working of Form U-4 to delete redundant language and to clarify the information required on the form. In addition, the Exchange proposes to add several new provisions to Form U-4 which are discussed below. First, the Exchange proposes the addition of nine new categories for types of registration, including the categories of Securities Lending Representative and Securities Trader.[4] The Exchange also proposes a new provision setting forth the methods of service of notice of any investigation or proceeding by any SRO against any member organization.[5] Under the new provision, this notice could be given by personal service, regular, registered, or certified mail, confirmed telegram to the member's most recent business or home address, or by leaving notice of the investigation or proceeding at such address.

The current provision dealing with arbitration binds a member to arbitrate any dispute that may arise that is required to be arbitrated under the rules, constitution or by-laws of the SROs. The Exchange proposes to expand this provision dealing with arbitration to provide that any arbitration award rendered against any member organization may be entered as a judgment in a court of competent jurisdiction. The Exchange proposes also to substitute the broader term "jurisdiction" for the term "state" wherever such term is used throughout Form U-4.

In addition, the Exchange is proposing amended language to clarify that former employers of a member who furnish information in connection with the employee's termination would be released from any liability in connection with that information.

Finally, Form U-4 currently gives the Exchange the Authority to give any information concerning a member organization to any securities or commodities industry SRO. The Exchange proposes to broaden this language so that the Exchange may provide information concerning a member organization to any organization. The Exchange states that, because the term organization is defined in paragraph 8 of the General Instructions to Form U-4 as "any national securities and commodities exchange, any national securities association * * * or any registered clearing agency," the new language "any organization" simplifies this provision and broadens it to include clearing agencies.

b. Revisions to Form U-5

The proposed change to Form U-5 adds a page (Disclosure Reporting Page (DRP-5)) to the form, to be used to report details of certain events or proceedings required to be disclosed in connection with employment termination, *e.g.*, details of disciplinary actions, customer complaints, criminal actions or SRO investigations. Although this information is required to be reported on the current Form U-5, under this revised reporting format the information will be entered on one page, and will be more easily captured by the CRD system.

2. Discussion and Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of sections 6(b)(5) and 6(c)(3) of the Act.[6] In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in regulating transactions in securities, and, in general, to protect investors and the public in that the proposed revisions to Forms U-4 and U-5 will assist the Exchange in its registration and oversight of industry personnel by providing more simplified and clarified reporting of information. The specific changes to the wording of these forms delete redundant phrases and clarify language, thus making the information presented clearer and easier to understand. This improved information will assist the SROs in monitoring members and associated persons and making decisions regarding their registration. The Commission believes that improving the information which

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] The Commission recently approved similar changes to Forms U-4 and U-5 submitted by the NASD. *See* Securities Exchange Act Release No. 27826 (March 20, 1990), 55 FR 11282 (March 27, 1990).

[4] In addition, the Exchange proposes the following categories: Trading Supervisor, Assistant Representative/Order Processing, Introducing Broker-Dealer/Financial and Operations Principal, Securities Lending Supervisor, Approved Person, Agent of the Issuers, and Uniform Investment Advisor Law Examination. The Exchange proposes deletion of the category of Municipal Securities Financial and Operations Principal.

[5] Form U-4 currently contains, on page four, nine provisions which are applicable to member organizations. Under the proposed revisions in this rule filing, this new provision regarding service of process would be set forth as number seven. The revised Form U-4, therefore, would have ten provisions on this page.

[6] 15 U.S.C. 78f (1982).

will be available to each SRO will benefit the entire industry and increase the quality of SRO oversight in this area.

The Commission also believes that the provision expanding the current arbitration provision to provide that an arbitration award rendered against a member organization may be entered as a judgment in a court of competent jurisdiction is consistent with the section 6(b)(5) requirement that the rules of an exchange promote just and equitable principles of trade in that it will serve to strengthen enforcement of arbitration judgments.

The Commission further believes that the changes proposed to Form U–5 are consistent with the section 6(b)(5) requirement that the rules of an exchange foster cooperation and coordination with persons engaged in regulating information with respect to transactions in securities in that the revised format will allow the information to be more easily captured by the CRD system. Also, the changes to the Form U–5 clarify that members have a continuing obligation to amend the Form U–5 to report relevant changes, thus helping ensure the accuracy of information reported to the Exchange.

Also, because the term organization is defined in paragraph 8 of the General Instructions to Form U–4 as "any national securities and commodities exchange, any national securities association * * * or any registered clearing agency," the Commission believes that using the term "any organization" on the form simplifies this provision, while at the same time clarifying the fact that registered clearing agencies also are entitled to receive information concerning a member organization.[7]

In addition, the Commission believes that the information reported on Forms U–4 and U–5 should assist the Exchange in its responsibility under section 6(c) of the Act to deny membership to those subject to a statutory disqualification or who cannot meet such standards of training, experience, and competence as are prescribed by the rules of the exchange or those who have engaged in acts or practices inconsistent with just and equitable principles of trade. Finally, the Commission recently approved identical changes to Forms U–4 and U–5 submitted by the NASD.[8]

[7] The Commission believes that providing such information should assist a clearing agency in meeting its responsibility under section 17A of the Act, 15 U.S.C. 78q–1, to deny participation to those subject to a statutory disqualification or who have engaged in acts or practices inconsistent with just and equitable principles of trade.

[8] *See supra* note 3.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: August 23, 1990.

Jonathan G. Katz,

Secretary.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–20445 Filed 8–29–90; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(2) (1982).

[10] 17 CFR 200.30–3(a)(12) (1989).

[Rel. No. 34–28365; File No. SR–NYSE–90–34]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Proposed Revisions to Guidelines for Floor Conduct and Safety

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of revisions to the Exchange's Guidelines for Floor Conduct and Safety.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the Exchange's Guidelines for Floor Conduct and Safety, which were adopted in 1977,[1] is to ensure that the behavior and practices of individuals on the Floor of the Exchange contribute to the efficient, undisrupted conduct of business, and do not jeopardize the safety or welfare of others. The Board has delegated authority to Floor Officials (as defined in Exchange Rule 46) to impose on-the-spot penalties against any member or Floor clerical employee of a member or member organization found in violation of the Guidelines in accordance with the schedule of specified penalties. This procedure streamlines the administration of disciplinary sanctions for "Floor decorum" and other offenses, thus enabling the Exchange to maintain better control of conduct and practices on the trading Floor. Any action taken by a Floor Official may be appealed to a Committee of three Floor Governors of the Exchange. Such appeal is in addition to the right of appeal to the Exchange Board of Directors granted under article IV, section 14 of the Exchange Constitution.

To further enhance the safe and efficient conduct of business on Exchange premises, several additions and revisions have been made to the Guidelines for Floor Conduct and Safety since the amendments filed with the Commission in 1986.[2] The major revisions to the Guidelines are (i) The adoption of a revised code of Personal Appearance regarding appropriate attire for male and female personnel on the trading Floor; (ii) modifications to the prohibition on clerks entering the trading Crowd; (iii) modifications to the requirements to display proper identification when entering and while on the trading Floor; and (iv) a requirement to return visitors' passes to the Security Department on the same day such pass is issued.

Other revisions to the Guidelines concern: an amendment to the "no smoking" policy to make it clear that the Exchange may permit smoking only in designated areas and that adherence to the "no smoking" policy also extends to any premises under Exchange control where smoking is prohibited; an

[1] *See* Securities Exchange Act Release No. 13893 (August 26, 1977), 42 FR 45402 (September 9, 1977) (Order announcing immediate effectiveness of proposed rule change SR–NYSE–77–23).

increase in the fine for failure to surrender an Exchange-issued identification card on termination of employment of an individual with a member or member organization, from $500 to $1,000; clarification that failure to cooperate with Exchange security personnel may result in the assessment of fines; a prohibition on carrying or consuming food and beverages in the trading Crowd or while walking across the Floor; and changes in the amount of the fines which may be assessed against individuals who fail to comply with the requirements to display the proper identification when entering or while on the trading Floor.

The details of the revised Code of Personal Appearance for personnel on the Floor are available for inspection and copying at the Commission's public reference section and at the Exchange. The other major revisions to the Guidelines proposed by the Exchange, as previously set forth above, are the following:

(i) Clerical employees entering and leaving the Floor must remain as close as possible to the perimeter of the Floor 15 minutes prior to the opening and 5 minutes after the close of business. To further clarify the prohibition on clerks entering the Crowd or interacting with brokers in the Crowd, the Exchange proposes to add a provision to this particular Guideline which provides that "clerks are never permitted to enter a trading Crowd or hand orders/cancellations to brokers in a trading Crowd or interact with brokers in a trading Crowd at any time for any purpose—other than resolution of QT's or open items—regardless of where the trading Crowd extends to, even if it extends outside the 'Blue Perimeter Line'."

(ii) A revision to the requirement to display proper identification when entering the trading Floor to require both members and employees of member and member organizations to display their Exchange-issued photo identification cards when the entering the Exchange building and while on Exchange premises. Members will no longer be permitted to display only their members' badges for identification in order to comply with this requirement.

The penalties for non-compliancewith this requirement have been increased for both members and their employees, for both first and subsequent offenses.

(iii) A new provision requiring that any members sponsoring visitors to the Floor must sign for a visitor's pass from the Security Department and return that pass as soon as the visitor has completed his or her visit to the Floor. The failure to return a visitor's pass on the same day it is issued will subject the member to imposition of a $500 fine.

It is anticipate that these proposed revisions to the Guidelines will foster the safe and efficient conduct of business on the Trading Floor, as well as on Exchange premises. These revisions to the Guidelines for Floor Conduct and Safety do not affect the rights of members and Floor clerical employees of members and member organizations to appeal, pursuant to existing Exchange rules and procedures, any penalties that are imposed.

2. Statutory Basis

The revisions to the Guidelines for Floor Conduct and Safety are intended to promote the efficient, undisrupted conduct of business on the trading Floor. This, in turn, will facilitate transactions in securities, perfect the mechanism of a free and open market, and protect investors and the public interest, as called for in section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change is concerned solely with the administration of the Exchange and also is a "stated policy, practice or interpretation" concerned with the administration or enforcement of Exchange Rule 35, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–90–34 and should be submitted by September 20, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 23, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–20446 Filed 8–29–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17695; 812–7552]

American Capital Life Investment Trust, et al.

August 23, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: American Capital Life Investment Trust (the "Fund") and certain life insurance companies and variable life insurance company separate accounts (collectively, the "Applicants").

RELEVANT 1940 ACT SECTION: Exemptions requested under section 6(c) from sections 9(a), 13(a), 15(a) and 15(b) of the Act and rules 6e–2(b)(15) and 63–(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of the Fund to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies.

FILING DATES: The application was filed on July 3, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application

will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by 5:30 p.m. on September 17, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o American Capital Asset Management, Inc., 2800 Post Oak Blvd., Houston, Texas 77056, Attention: Nori L. Gabert.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rappa, Staff Attorney at (202) 272–2622 or Heidi Stam, Assistant Chief, at (202) 272–2060 (Office of Insurance Products and Legal Compliance, Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Fund is a Massachusetts business trust registered under the Act as an open-end diversified management investment company. The Fund intends to offer its shares to separate accounts of any interested insurance company in order to fund variable annuity contracts and variable life insurance contracts (collectively referred to herein as "variable contracts"). Insurance companies whose separate accounts own shares of the Fund are referred to herein as "participating insurance companies." The participating insurance companies will establish their own separate accounts and design their own variable annuity or variable life insurance contracts. It is anticipated that participating insurance companies will rely on rules 6e–2 or 6e–3(T) under the Act, although some may rely on individual exemptive orders as well, in connection with variable life insurance contracts. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to as "mixed funding." The use of a common management company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to as "shared funding." Applicants request an order of the Commission exempting certain life insurance companies and variable life insurance separate accounts (and, to the extent necessary, any principal underwriter and depositor of such an account) from sections 9(a), 13(a), 15(a) and 15(b) of the Act, and rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to permit mixed and shared funding.

2. Section 9(a) of the Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a)(1) or (2). Rules 6e–2(b)(15)(i) and (ii), and 6e–3(T)(b)(15)(i) and (ii) provide exemptions from section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

3. Applicants state that the partial relief granted in rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of section 9 in effect limits the amount of monitoring necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of section 9. Applicants also state that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply the provisions of section 9(a) to the many individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies in that organization. Applicants state that it is unnecessary to apply section 9(a) to individuals in various unaffiliated insurance companies (or affiliated companies of participating insurance companies) that may utilize the Fund as the funding medium for variable contracts. Applicants argue that applying the requirements of section 9(a) because of investment by other insurers' separate accounts would be unjustified and would not serve any regulatory purpose. The application states that, on the other hand, the increased monitoring costs would reduce the net rates of return realized by contract owners.

4. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. The application states that pass-through voting privileges will be provided with respect to all variable contract owners so long as the Commission interprets the Act to require pass-through voting privileges for variable contract owners.

5. Rule 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed.

6. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard contract owners' voting instructions. Applicants represent that this does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Under rules 6e–2(b)(15) and 6e–3(T)(b)(15), an insurer can disregard contract owner voting instructions only with respect to certain specified items. Affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by contract owners. The application states that the potential for disagreement is limited by the requirements in rules 62–2 and 6e–3(T) that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

7. The application states that making the Fund available for mixed and shared funding will encourage more insurance companies to offer variable contracts, and this should result in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges. Applicants believe that mixed and shared funding should provide several benefits to variable contract owners. Participating insurance companies will benefit not only from the investment and administrative expertise of the Fund's investment adviser, American Capital Asset Management, Inc. ("ACAM") and its affiliates, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. It would eliminate a significant portion of the costs of establishing and administering separate funds. It would permit a greater amount of assets available for investment, thereby promoting economies of scale, permitting a greater diversification, and for making the addition of new portfolios more feasible.

8. Applicants see no significant legal impediment to permitting mixed and shared funding. Separate accounts organized as unit investment trusts have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Applicants do not believe that mixed and shared funding will have any adverse federal income tax consequences.

Applicants' Conditions

If the requested order is granted, Applicants consent to the following conditions:

1. A majority of the Board of Trustees of the Fund shall consist of persons who are not "interested persons" of the Fund, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any Trustee or Trustees, then the operation of this condition shall be suspended (a) For a period of 45 days if the vacancy or vacancies may be filled by the Board of Trustees; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contract owners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners; or (f) a decision by an insurer to disregard the voting instructions of contract owners.

3. Participating insurance companies and the Fund's investment adviser, ACAM, will report any potential or existing conflicts to the Board of Trustees of the Fund. Participating insurance companies and ACAM will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contract owner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all insurers investing in the Fund under their agreements governing participation in the Fund and these responsibilities will be carried out with a view only to interests of the contract owners.

4. If it is determined by a majority of the Board of Trustees of the Fund, or a majority of its disinterested Trustees, that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested Trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (1) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any series and reinvesting such assets in a different investment medium, including another series of the Fund, or submitting the question whether such segregation should be implemented to a vote of all affected contract owners and as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners, life insurance contract owners, or variable contract owners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (2) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election, to withdraw its separate account's investment in the Fund and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund and these responsibilities will be carried out with a view only to the interests of contract owners. For purposes of this condition (4), a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or ACAM be required to establish a new funding medium for any variable contract. No participating insurance company shall be required by this condition (4) to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contract owners materially adversely affected by the irreconcilable material conflict.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly to all participating insurance companies.

6. Participating insurance companies will provide pass-through voting privileges to all variable contract owners so long as the Commission continues to interpret the Act as requiring pass-through voting privileges for variable contract owners. Accordingly, participating insurance companies will vote shares of the Fund held in their separate accounts in a manner consistent with timely voting instructions received from contract owners. Each participating insurance company will vote shares of the Fund held in its separate accounts for which no timely voting instructions from contract owners are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received. Participating insurance companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other participating insurance companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund.

7. The Fund will comply with all provisions of the Act requiring voting by shareholders, and in particular the Fund will either provide for annual meetings (except insofar as the Commission may interpret section 16 not to require such meetings), or comply with section 16(c) of the Act (although the Fund is not one of the trusts described in section 16(c) of the Act) as well as with section 16(a) and, if and when applicable, section 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic

elections of Trustees and with whatever rules the Commission may promulgate with respect thereto.

8. The Fund shall disclose in its prospectus that (1) The Fund is intended to be a funding vehicle for all types of variable annuity and variable life insurance contracts offered by various insurance companies; (2) material irreconcilable conflicts may possibly arise; and (3) the Fund's Board of Trustees will monitor events in order to identify the existence of any material irreconcilable conflict and determine what action, if any, should be taken in response to such conflict. The Fund will notify all participating insurance companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate.

9. If and to the extent that rule 6e–2 and rule 6e–3(T) are amended, or rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this application, then the Fund and/or participating insurance companies, as appropriate, shall take such steps as may be necessary to comply with rules 6e–2 and 6e–3(T), or rule 6e–3, to the extent such amended rules are applicable.

10. The participating insurance companies and/or ACAM shall at least annually submit to the Fund's Board of Trustees such reports, materials or data as the Trustees may reasonably request so that the Trustees of the Fund may fully carry out the obligations imposed upon them by the conditions contained in this application and said reports, materials and data shall be submitted more frequently if deemed appropriate by the Board of Trustees. The obligations of the participating insurance companies to provide these reports, materials and data to the Fund's Board of Trustees when it so reasonably requests shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund.

11. All reports received by the Board of Trustees of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying participating insurance companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

[FR Doc. 90–20441 Filed 8–29–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17691; 811–4903]

Pilgrim Investment Trust; Application

August 22, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Pilgrim Investment Trust.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATE: The application on Form N–8F was filed on March 28, 1990 and amended on August 6, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 18, 1990, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 10100 Santa Monica Boulevard, Los Angeles, California 90067.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, (202) 272–3043, or Jeremy N. Rubenstein, Branch Chief, (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is an open-end diversified management company organized as a business trust under the laws of the Commonwealth of Massachusetts. On November 14, 1986, applicant filed a Notification of Registration pursuant to section 8(a) of the 1940 Act. Applicant has a single series, the Pilgrim Rising Profitability Fund (the "Fund"), which registered an indefinite number of shares on Form N–1A. The registration statement became effective on September 4, 1987.

2. At a special meeting of the Fund held on November 11, 1988, the following proposals were approved by the shareholders of the Fund as a result of the adoption of an Agreement and Plan of Reogranization: (i) The transfer of all of the assets of the Fund to Pilgrim MagnaCap Fund, Inc. ("Magna Cap") in exchange for shares of MagnaCap; (ii) the distribution of MagnaCap shares to the shareholders of the Fund in liquidation of the Fund; and (iii) the subsequent dissolution and liquidation of the Fund.

3. The MagnaCap shares were acquired by the Fund and distributed to the Fund's shareholders on November 11, 1988. The value of the assets of the Fund that were transferred to MagnaCap was equal to the value of the MagnaCap shares distributed to the Fund's shareholders.

4. Expenses for legal, proxy solicitation, and printing services totaling $26,124 were incurred by or on behalf of the applicant in connection with the Fund's sale of assets and liquidation.

5. As of the date of the application, the applicant had no shareholder, debts, or liabilities and was not a party to any litigation or administrative proceeding.

6. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–20442 Filed 8–29–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17696/812–7451]

Van Eck Investment Trust

August 23, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Van Eck Investment Trust.

RELEVANT 1940 ACT SECTION: Exemption requested pursuant to section 6(c) of the Investment Company Act of 1940 from sections 9(a), 13(a), 15(a) and 15(b) of the Act and rules 6e–2(b) (15) and 6e–3(T) (b) (15) thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order to the extent necessary to permit shares of Applicant to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies.

FILING DATE: The application was filed on December 26, 1989, amended on April 30, 1990 and on August 3, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on September 17, 1990. Request for a hearing must be in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Van Eck Investment Trust, 122 E. 42nd Street, New York, NY 10168.

FOR FURTHER INFORMATION: Thomas E. Bisset, Staff Attorney, at (202) 272–2058, or Heidi Stam, Special Counsel, at (202) 272–2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicant's Representations

1. Van Eck Investment Trust (the "Trust") is a registered, openend, management investment company in series form organized as a Massachusetts business trust. The Trust intends to offer its shares to separate accounts of any interested insurance company in order to fund variable annuity contracts and variable life insurance contracts (collectively referred to herein as "variable contracts"). Insurance Companies whose separate accounts own shares of the Trust are referred to herein as "Participating Insurance Companies". It is anticipated that Participating Insurance Companies will rely on rules 6e–2 or 6e–3(T) under the Act, although some may rely on individual exemptive orders as well, in connection with variable life insurance contracts. The use of a common management company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to herein as "mixed funding". The use of a common management company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to herein as "shared funding". Applicant requests an exemption for certain life insurance companies and variable life insurance separate accounts (and, to the extent necessary, the investment adviser and any principal underwriter and depositor of such accounts) from the provisions of sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and rules 6e–2(b)(15) and 6e–3(T) (b) (15) thereunder (and any comparable permanent rule), to the extent necessary to permit shares of the Trust to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies.

2. Section 9(a) of the Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a) (1) or (2). Rules 6e–2 (b) (15) (i) and (ii), and 6e–3(T) (b) (15) (i) and (ii), provide exemptions from section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

3. The partial relief granted in rules 6e–2(b) (15) and 6e–3(T) (b) (15) from the requirements of section 9 in effect limits the amount of monitoring necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of Section 9. Those Rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisons of the Act to apply the provisions of section 9(a) to the many individuals in an insurance company complex, most of whom will have no involvement in matters pertaining to investment companies in that organization. It is also unnecessary to apply section 9(a) to the many individuals in various unaffiliated insurance companies (or affiliated companies of participating insurance companies) that may utilize the Trust as the funding medium for variable contracts. There is no regulatory purpose in extending the monitoring requirements because of mixed funding or because separate accounts of unaffiliated insurers invest in the Trust. In addition, the increased monitoring costs would reduce the net rates return realized by contract owners.

4. The language of rules 6e–2(b) (15) (iii) and 6e–3(T) (b) (15) (iii) assumes the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Pass-through voting privileges will be provided with respect to all variable contract owners so long as the Commission interprets the Act to require pass-through voting privileges for variable contract owners. In addition, to the extent the Commission continues to interpret the Act to require pass-through voting privileges, Participating Insurance Companies will vote shares of the Trust held in their separate accounts for which no timely voting instructions from variable contract owners are received, as well as shares they own, in the same proportion as those shares for which voting instructions are received.

5. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed.

6. Applicant states that the right under rules 6e–2(b)(15) and 6e–3(T)(b)(15) of the insurance company to disregard contract owners' voting instructions does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter or investment adviser initiated by contract owners. The potential for disagreement is limited by the requirements in rules 6e–2 and 6e–3(T) that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

7. Use of the Trust as a common investment medium for variable contracts would reduce the cost of organizing and operating a funding

medium and eliminate the lack of expertise with respect to investment management and public name recognition, because Participating Insurance Companies would benefit not only from the investment and administrative expertise of Van Eck Associates Corporation ("Associates"), investment adviser to the Trust, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Therefore, making the Trust available for mixed and shared funding will encourage more insurance companies to offer variable contracts, and this should result in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges. Mixed and shared funding would also benefit variable contract owners by eliminating a significant portion of the costs of establishing and administering separate accounts. Furthermore, granting the requested relief would result in an increased amount of assets available for investment by the Trust which may benefit variable contract owners by promoting economies of scale.

8. Applicant sees no significant legal impediment to permitting mixed and shared funding. Separate accounts organized as unit investment trusts have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account.

Applicant's Conditions

If the requested order is granted, Applicant consents to the following conditions:

1. A majority of the Board of Trustees of the Trust shall consist of persons who are not "interested persons" of the Trust, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition in not met by reason of the death, disqualification, or bona fide resignation of any Trustee or Trustees, then the operation of this condition shall be suspended (a) For a period of 45 days if the vacancy or vacancies may be filed by the Board of Trustees; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Board will monitor the Trust for the existence of any material irreconcilable conflicts between the interests of the contract owners of all separate accounts investing in the Trust. An irreconcilable material conflict may conceivably arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Trust are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners; or (f) a decision by an insurer to disregard the voting instructions of contract owners.

3. Participating Insurance Companies and Associates will report any potential or existing conflicts to the Board of Trustees of the Trust. Participating Insurance Companies and Associates will be responsible for assisting the Board in carrying out its responsibilities under these conditions, by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever contract owner voting instructions are disregarded. The responsibility to report such information and conflicts to assist the Board will be a contractural obligation of all insurers investing in the Trust under their agreements governing participation in the Trust and such responsibilities will be carried out with a view only to the interests of the contract owners.

4. If it is determined by a majority of the Board of Trustees of the Trust, or a majority of its disinterested Trustees, that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested Trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (1) Withdrawing the assets allocable to some or all of the separate accounts from the Trust and reinvesting such assets in a different investment medium or submitting the question of whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., annuity contract owners, life insurance contract owners or variable contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (2) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurers's decision to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Trust's election, to withdraw its separate account's investment in the Trust and no charge or penality will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Trust, and these responsibilities will be carried out with a view only to the interest of contract owners.

For purposes of this condition (4), a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Trust, Associates or Van Eck Securities Corporation, the principal underwriter to the Trust, be required to establish a new funding medium for any separate account. No Participating Insurance Company shall be required by this condition (4) to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contract owners materially adversely affected by the irreconcilable material conflict.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly, through Associates or directly, to all Participating Insurance Companies.

6. Participating Insurance Companies will provide pass-through voting privileges to all variable contract owners so long as the Commission continues to interpret the Act to require pass-through voting privileges for variable contract owners. Accordingly, Participating Insurance Companies will vote shares of the Trust held in their separate accounts in a manner consistent with timely voting instructions received from contract owners. Each participating Insurance Company will vote shares of the Trust held in its separate accounts for which no timely voting instructions from contract owners are received, as well as

shares it owns, in the same proportion as those shares for which voting instructions are received. Participating Insurance Companies shall be responsible for assuring that each of their separate accounts participating in the Trust calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Trust shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Trust.

7. The Trust will comply with all provisions of the Act requiring voting by shareholders, and in particular the Trust will either provide for annual meetings (except insofar as the Commission may interpret section 16 not to require such meetings), or comply with section 16(c) of the Act as well as with sections 16(a) and, if and when applicable, 16(b). Further, the Trust will act in accordance with the Commission's interpretation of the requirement of section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

8. The Trust shall disclose in its prospectus that (1) The Trust is intended to be a funding vehicle for all types of variable annuity and variable life insurance contracts offered by various insurance companies, (2) material irreconcilable conflicts may possibly arise, and (3) the Trust's Board of Trustees will monitor events in order to identify the existence of any material irreconcilable conflicts and determine what action, if any, should be taken in response to such conflicts. The Trust will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate.

9. If and to the extent that rule 6e–2 and rule 6e–3(T) are amended, or rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, the Trust and/or the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with rules 6e–2 and 6e–3(T), as amended, and rule 6e–3, as adopted, to the extent such rules are applicable.

10. The Participating Insurance Companies and/or Associates shall at least annually submit to the Trust's Board of Trustees such reports, materials or data as the Trustees may reasonably request so that the Trustees of the Trust may fully carry out the obligations imposed upon them by the conditions contained in this application and said reports, materials and data shall be submitted more frequently if deemed appropriate by the Board of Trustees. The obligations of the Participating Insurance Companies to provide these reports, materials and data to the Trust's Board of Trustees when it so reasonably requests, shall be a contractual obligation of all Participating Insurance Companies under their agreement governing participation in the Trust.

11. All requests received by the Board of Trustees of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–20443 Filed 8–29–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Ground Air Transfer, Inc.; d/b/a Charter One

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—order 90–8–48, order to show cause.

SUMMARY: The Department of Transportation is proposing to find Ground Air Transfer, Inc. d/b/a Charter One fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P–56, Department of Transportation, 400 Seventh Street, SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 4, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: August 24, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90–20448 Filed 8–29–90; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

Environmental Impact Statement: Rockingham County, NH

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact study (EIS) will be prepared for a proposed highway project in Rockingham County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: William F. O'Donnell, P.E., Area Engineer, Federal Highway Administration, 55 Pleasant Street, Concord, New Hampshire, 03301, Telephone (603) 225–1608, or William R. Hauser, Supervisor, Environmental Services Section, New Hampshire Department of Transportation, P.O. Box 483, J.O. Morton Building, Concord, N.H. 03302–0483, Telephone (603) 271–3226.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Hampshire Department of Transportation (NHDOT), will prepare an EIS for a proposed highway project to relocate a section of N.H. Route 111 approximately 2.6 miles in length beginning in the vicinity of Interchange 3 of Interstate 93 in the Town of Windham and ending on the existing alignment of N.H. Route 111 near the easterly end of Shadow Lake in the Town of Salem. N.H. Route 111 is envisioned as a controlled access facility. The towns of Windham and Salem will be included in the study. The proposed action would relieve traffic congestion, reduce travel time, improve safety and accommodate projected increases in traffic demand.

Alternatives to be considered include (1) taking no action; (2) applying transportation systems management (TSM) improvements to selected locations on existing roads; (3) upgrading existing route to add capacity,

reduce travel time and/or improve safety; (4) constructing a new highway on a new location between N.H. Route 111 and Interstate Route 93; and (5) combinations of these alternatives. Various designs of grade, alignment, geometry and access will be evaluated.

An Advisory Task Force will be established with representatives of NHDOT, the Rockingham Regional Planning Commission, and a committee of local officials.

Letters describing the proposed action and soliciting comments, will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who have an interest in this proposal. Public information, community and Advisory Task Force meetings will be held in the study area as the project progresses in order to include public input in the planning process. A public hearing will be held following distribution of the Draft Environmental Impact Statement (DEIS). Public notice will be given regarding the time and location of this hearing. The DEIS will be available for review and comment by the public and interested agencies.

A formal scoping meeting will be held from 2–5 p.m. on September 20, 1990, at the Windham Town Hall to help establish the study framework and the impacts to be analyzed. Study area resources now being analyzed include the natural environment (farmland, forestland, wetlands, floodplains, surface water and water supply resources, wild and scenic rivers, terrestrial and aquatic resources, threatened and endangered species, public conservation lands and parklands, geology, soils, topography and hazardous wastes), the social environment (land use, population, employment, economic development and community facilities), and cultural environment (historic and archeological resources), and the transportation network. Agencies to be invited to be cooperating agencies are the Environmental Protection Agency, the U.S. Army Corps of Engineers, the New Hampshire State Historic Preservation Office and the New Hampshire Wetlands Board.

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified. Comments or questions concerning this proposed action should be directed to the FHWA or the NHDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program)

Issued on August 24, 1990.

Vincent F. Schimmoller,

Division Administrator, Concord, New Hampshire.

[FR Doc. 90–20484 Filed 8–29–90; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: San Bernardino County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in San Bernardino County, California.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Klekar, District Engineer, Federal Highway Administration, P.O. 1915, Sacramento, California 95812–1915, Telephone: (916) 551–1307.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an environmental impact statement for the proposed Big Bear Lake Dam Bridge Replacement Project on State Route 18 in San Bernardino County, California. The proposed project will facilitate completion of the Big Bear dam spillway, move vehicular traffic off the dam structure, and improve the geometrics of the approach roadways. Existing Route 18 with the project limits has curves where the posted speed limit is less than 25 miles per hour. These curves could be realigned and the overall roadway, including the proposed bridge, could be widened from two to four lanes. Consultation with the U.S. Forest Service will be undertaken to minimize impacts to the surrounding San Bernardino National Forest caused by project construction.

Alternatives currently under consideration include: No action; place new bridge on the existing dam; construct new bridge downstream; and construct a new bridge crossing over Big Bear Lake. There are design variations for each of the proposed alternatives that offer different treatments for the approach roadway, such as realigning curves or leaving them as is.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A formal agency scoping meeting was held June 5, 1990, in the City of Big Bear Lake, California. A public meeting was held July 90, 1990, also in the City of Big Bear Lake. In addition, a series of interviews and other public meetings will be held. The public information program will continue throughout the environmental process.

The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are address, and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address previously provided in this document.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program)

Issued on: August 6, 1990.

Jeffrey S. Lewis,

Acting District Engineer, Sacramento, California.

[FR Doc. 90–20493 Filed 8–29–90; 8:45 am]

BILLING CODE 4910–22–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 169
Thursday, August 30, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

POSTAL SERVICE (BOARD OF GOVERNORS)

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, September 11, 1990, in St. Louis, Missouri. The meeting is open to the public and will be held in Room 2091 of the St. Louis Post Office, 1720 Market Street. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

There will also be a session of the Board on Monday, September 10, 1990, but it is not open to the public. It will consist entirely of briefings, the agenda item to discuss possible strategies in collective bargaining negotiations noted in 55 FR 32732, August 10, 1990, having been deleted.

Agenda

Tuesday Session—St. Louis Post Office—Room 2091, *September 11—8:30 a.m.* (Open)

1. Minutes of the Previous Meeting, August 6-7, 1990.
2. Remarks of the Postmaster General. (Anthony M. Frank)
3. Postal Rate Commission FY 1991 Budget Request. (Robert Setrakian, Chairman)
4. Review of Legislative Matters and Government Relations. (William T. Johnstone, Assistant Postmaster General, Government Relations Department)
5. Briefing on Potential FY 1991 Appropriations Sequestration—Gramm-Rudman. (Comer S. Coppie, Senior Assistant Postmaster General, Finance Group)
6. Five-Year Capital Investment Plan Update and 1992 Borrowing Request. (Mr. Coppie)
7. Tentative USPS FY 1992 Appropriation Request. (Mr. Coppie)
8. Briefing on Olympic Support Program. (Deborah K. Bowker, Assistant Postmaster General, Communications Department)
9. Report on the Central Region. (Jerry K. Lee, Sr., Regional Postmaster General)
10. Report on the St. Louis Division. (John C. Goodman, Field Division General Manager/Postmaster)
11. Capital Investment.
a. Package Bar Code Sorting System. (Peter A. Jacobson, Assistant Postmaster General, Engineering and Technical Support Department)
12. Tentative Agenda for October 1-2, 1990, meeting in San Bruno, California.

David F. Harris,
Secretary.

[FR Doc. 90-20568 Filed 8-28-90; 10:05 am]
BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION:

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 4, 1990.

An open meeting will be held on Thursday, September 6, 1990, at 10:00 a.m., in room 1C30, followed by a closed meeting. A closed meeting will be held on Thursday, September 6, 1990, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, September 6, 1990, at 10:00 a.m., will be:

The Commission will hear oral argument on an appeal by Thomas J. Fittin, Jr., a registered broker-dealer, from an administrative law judge's initial decision. For further information, please contact R. Moshe Simon at (202) 272-7400.

The subject matter of the closed meeting scheduled for Thursday, September 6, 1990, following the 10:00 a.m. open meeting will be:

Post oral argument discussion.

The subject matter of the closed meeting scheduled for Thursday, September 6, 1990, at 2:30 p.m., will be:

Institution of injunctive actions.
Reports of investigation.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Gray at (202) 272-2300.

Dated: August 28, 1990.

Jonathan G. Katz,
Secretary.

[FR Doc. 90-20649 Filed 8-28-90; 3:54 pm]
BILLING CODE 8010-01-M

federal register

Thursday
August 30, 1990

Part II

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3825-8]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is amending appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, which was originally promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"). CERCLA has since been amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA") and is implemented by Executive Order 12580 (52 FR 2923, January 29, 1987). CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List ("NPL"), initially promulgated as appendix B of the NCP on September 8, 1983 (48 FR 40658), constitutes this list and is being revised today by the addition of 106 sites, including 23 Federal facility sites. Based on a review of public comments on these sites, EPA has decided that they meet the eligibility requirements of the NPL and are consistent with the Agency's listing policies. In addition, today's action removes 10 sites, including one Federal facility site, from the proposed NPL. Information supporting these actions is contained in the Superfund Public Dockets.

This rule results in a final NPL of 1,187 sites, 116 of them in the Federal section; 20 sites are proposed to the NPL, none of them in the Federal section. Final and proposed sites now total 1,207.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be October 1, 1990. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha* 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If any section by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the **Federal Register.**

ADDRESSES: Addresses for the Headquarters and Regional dockets follow. For further details on what these dockets contain, see section I of the **"SUPPLEMENTARY INFORMATION"** portion of this preamble.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS-245, Waterside Mall, 401 M Street, SW, Washington, DC 20460, 202/382-3046

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston MA 02203, 617/573-5729

U.S. EPA, Region 2, Document Control Center, Superfund Docket, 26 Federal Plaza, 7th Floor, room 740, New York, NY 10278, Latchmin Serrano, 212/264-5540, Ophelia Brown, 212/264-1154

Diane McCreary, Region 3, U.S. EPA Library, 5th floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580

Beverly Fulwood, Region, 4, U.S. EPA Library, room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347-4216

Cathy Freeman, Region 5, U.S. EPA, 5 HS-12, 230 South Dearborn Street, Chicago, IL 60604, 312/886-6214

Bill Taylor, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H-MA, Dallas, TX 75202-2733, 214/65-6740

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551-7241

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, suite 500, Denver, CO 80202-2405, 303/293-1444

Lisa Nelson, Region 9, 1235 Mission Street, San Francisco, CA 94103, 415/744-1441

David Bennett, Region 10, U.S. EPA, 9th Floor, 1200 6th Avenue, Mail Stop HW-093, Seattle WA 98101, 206/442-2103

FOR FURTHER INFORMATION CONTACT: Richard Webster, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS-230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424-9346 (382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. sections 9601–9657 ("CERCLA" or the "Act"), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99–499, stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180) pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP, further revised by EPA on September 16, 1985 (50 FR 37624 and November 20, 1985 (50 FR 47912), sets forth guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. On March 8, 1990 (55 FR 8666), EPA revised the NCP in response to SARA.

Section 105(a)(8)(A) of CERCLA, as amended by SARA, requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." Removal action involves cleanup or other actions that are taken in response to releases or threats of releases on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA are included in the Hazard Ranking System ("HRS"), which EPA promulgated as appendix A of the NCP (47 FR 31319, July 16, 1982).

On December 23, 1988 (53 FR 51962), EPA proposed revisions to the HRS in response to CERCLA section 105(c), added by SARA. EPA intends to issue the revised HRS as soon as possible. However, until the revised HRS is in effect, EPA will continue to use the current HRS in accordance with CERCLA section 105(c)(1) and Congressional intent, as explained in 54 FR 13299 (March 31, 1989).

Based in large part on the HRS criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA prepared a list of national priorities among the known releases or threatened releases of hazardous substances, pollutant, or contaminants throughout the United States (the "National Priorities List" or "NPL"). The list has been promulgated as appendix B of the NCP. A site can undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990). As CERCLA section 105(a)(8)(b) states, the NPL is a listing of "releases or threatened releases" of hazardous substances, pollutants, or contaminants. For simplicity, the discussion below may refer to these releases or threatened releases" simply as "releases", "facilities", or "sites".

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). Pursuant to CERCLA section 105(a)(8)(B), which requires that the NPL be revised at least annually, the NPL has been updated periodically, most recently on March 14, 1990 (55 FR 9688). The Agency also has proposed adding new sites to the NPL, most recently on October 26, 1989 (54 FR 43778).

EPA may delete sites from the NPL when no further response is appropriate, as provided in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 29 sites from the final NPL, most recently on May 31, 1990 (55 FR 22030), when Reeser's Landfill, Upper Macungie Township, Pennsylvania, was deleted.

This rule adds 106 sites, including 23 Federal facility sites, to the NPL, and removes 10 sites from the proposed NPL, including one Federal facility site. Of the 10 sites being removed, seven have HRS scores below 28.50 and the other three can be addressed under corrective action authorities of Subtitle C of the Resource Conservation and Recovery Act (RCRA). EPA has carefully considered public comments submitted for the sites in this final rule and has made certain modifications in response to those comments. This rule results in a final NPL of 1,187 sites, 116 of them in the Federal section; 20 sites remain in proposed status, none of them in the Federal section. With these changes, final and proposed sites now total 1,207.

Information Available to the Public

The Headquarters and Regional public dockets for the NPL (see **ADDRESSES** portion of this notice) contain documents relating to the evaluation and scoring of sites in this final rule. The dockets are available for viewing, by appointment only, after the appearance of this notice. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Please contact individual Regional dockets for hours.

The Headquarters docket contains HRS score sheets for each final site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by special study waste or other requirements, or RCRA or other listing policies; a list of documents referenced in the Documentation Record; comments received; and the Agency's response to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List Final Rule—August 1990."

Each Regional docket includes all information available in the Headquarters docket for sites in that Region, as well as the actual reference documents, which contain the data principally relied upon by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. They may be viewed, by appointment only, in the appropriate Regional Docket or Superfund Branch Office. Requests for copies may be directed to the appropriate Regional Docket or Superfund Branch. An informal written request, rather than a

formal request, should be the ordinary procedure for obtaining copies of any of these documents.

II. Purpose and Implementation of the NPL

Purpose

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The initial identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites EPA believes warrant further investigation.

Federal facility sites are eligible for the NPL pursuant to the NCP at 40 CFR 300.425(b)(3) (55 FR 8845, March 8, 1990). However, section 111(e)(3) of CERCLA, as amended by SARA, limits the expenditure of CERCLA monies at federally-owned facilities. Federal facility sites also are subject to the requirements of CERCLA section 120, added by SARA.

Implementation

A site may undergo remedial action financed by the Trust Fund established under CERCLA ("Superfund") only after it is placed on the final NPL as outlined in the NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990). However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.415 (55 FR 8842, March 8, 1990).

EPA's policy is to pursue cleanup of NPL sites using the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. Listing a site will serve as notice to any potentially responsible party that the Agency may initiate CERCLA-financed remedial action. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, proceed directly with CERCLA-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for Superfund-financed response action and/or enforcement action through both State and Federal initiatives. These determinations will take into account which approach is more likely to most expeditiously accomplish cleanup of the site while using CERCLA's limited resources as efficiently as possible.

Remedial response actions will not necessarily be funded in the same order as a site's ranking on the NPL—that is, its HRS score. The information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. EPA relies on further, more detailed studies in the remedial investigation/feasibility study (RI/FS) to address these concerns.

The RI/FS determines the nature and extent of the threat posed by the release or threatened release. It also takes into account the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action, if any, to be taken at these sites are made in accordance with the criteria contained in subpart E of the NCP (55 FR 8839, March 8, 1990). After conducting these additional studies, EPA may conclude that it is not desirable to initiate a CERCLA remedial action at some sites on the NPL because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

Revisions to the NPL such as today's rulemaking may move some previously listed sites to a lower position on the NPL. However, if EPA has initiated action such as an RI/FS at a site, it does not intend to cease such actions to determine if a subsequently listed site should have a higher priority for funding. Rather, theAgency will continue funding site studies and remedial actions once they have been initiated, even if higher-scoring sites are later added to the NPL.

RI/FS at Proposed sites

An RI/FS may be performed at proposed sites (or even sites that have not yet been proposed for the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40CFR 300.425(b)(1) (55 FR 8845, March 8, 1990). Section 101(23) of CERCLA defines "remove" or "removal" to include "such actions as may be necessary to monitor, assess and evaluate the release or threat of release * * *." The definition of "removal" also includes "action taken under section 104(b) of this Act * * *," which authorizes the Agency to perform studies, investigations, and other information-gathering activities.

Although an RI/FS generally is conducted at a site after the site has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a proposed NPL site in preparation for a possible CERCLA-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to human health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

The NPL does not describe releases in precise geographical terms, and the Agency believes that it would be neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for it to do so. CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known "releases or threatened releases" of hazardous substances. Thus, the purpose of the NPL is merely to identify releases of hazardous substances that are priorities for further evaluation. Although CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of

such facilities or releases.[1] The names of sites are provided for purposes of identification only; the sites are not limited to the boundaries of properties that may be referred to in the name. Of course, HRS data upon which listing is based will, to some extent, describe which release is at issue; that is, the NPL site would include all releases evaluated as part of that HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, *see* 48 FR 40663 (September 8, 1983)).

EPA regulations do provide that the "nature and extent of the threat presented by a "release" will be determined by an RI/FS as more information is developed on site contamination (40 CFR 300.430(d)(2) (55 FR 8847, March 8, 1990)). During the RI/FS process, the release may be found to be larger or smaller than was originally known, as more is learned about the source and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be defined, and in any event are independent of listing. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site; indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it will be impossible to describe the boundaries of a release with certainty.

For these reasons, the NPL need not be amended if further research into the extent of the contamination expands the apparent boundaries of the release. As discussed above, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. *See* Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted at 48FR 40659 (September 8, 1983). If a party contests liability for releases on discrete parcels of property, it may do so if and when the Agency brings an action against that party to recover costs or to compel a response action at that property.

At the same time, however, the RI/FS or the Record of Decision (which defines the remedy selected) may offer a useful indication to the public of the areas of contamination at which the Agency is considering taking a response action, based on information known at that time. For example, EPA may evaluate (and list) a release over a 400-acre area, but the Record of Decision may select a remedy over 100 acres only. This information may be useful to a landowner seeking to sell the other 300 acres, but it would result in no formal change in the fact that a release is included on the NPL. The landowner (and the public) also should note in such a case that if further study (or the remedial construction itself) reveals that the contamination is located on or has spread to other areas, the Agency may address those areas as well.

This view of the NPL as an initial identification of a release that is not subject to constant re-evaluation is consistent with the Agency's policy of not rescoring NPL sites, or as stated in 49 FR 37081, September 21, 1984:

> EPA recognizes that the NPL process cannot be perfect, and it is possible that errors exist or that new data will alter previous assumptions. Once the initial scoring effort is complete, however, the focus of EPA activity must be on investigating sites in detail and determining the appropriate response. New data or errors can be considered in that process * * * [T]he NPL serves as a guide to EPA and does not determine liability or the need for response.

III. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS score is calculated by estimating risks presented in three potential "pathways" of human or environmental exposure: Ground water, surface water, and air. Within each pathway of exposure, the HRS considers three categories of factors "that are designed to encompass most aspects of the likelihood of exposure to a hazardous substance through a release and the magnitude or degree of harm from such exposure": (1) Factors that indicate the presence or likelihood of a release to the environment; (2) factors that indicate the nature and quantity of the substances presenting the potential threat; and (3) factors that indicate the human or environmental "targets" potentially at risk from the site. Factors within each of these three categories are assigned a numerical value according to a set scale. Once numerical values are computed for each factor, the HRS uses mathematical formulas that reflect the relative importance and interrelationships of the various factors to arrive at a final site score on a scale of 0 to 100. The resultant HRS score represents an estimate of the relative "probability and magnitude of harm to the human population or sensitive environment from exposure to hazardous substances as a result of the contamination of ground water, surface water, or air" (47 FR 31180, July 16, 1982). Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under the second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism is provided by section 105(a)(8)(B) of CERCLA, as amended by SARA, which requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3) (55 FR 8845, March 8, 1990), has been used only in rare instances. It allows certain sites with HRS scores below 28.50 to be eligible for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

All of the sites in today's final rule have been placed on the NPL based on their HRS scores.

States have the primary responsibility for identifying non-Federal sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, sampling, monitoring, and scoring sites. Regional Offices also may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the sites that meet one of the three criteria for listing (as well as statutory requirements and EPA's listing policies) and solicits public

[1] Although CERCLA section 101(9) sets out the definition of "facility" and not "release," those terms are often used interchangeably. (See CERCLA section 105(a)(8)(B), which defines the NPL as a list of "releases" as well as of the highest priority "facilities.") (For ease of reference, EPA also uses the term "site" interchangeably with "release" and "facility.")

comment on the proposal. Based on these comments and further review by EPA, the Agency determines final HRS scores and places those sites that still qualify on the final NPL.

IV. Statutory Requirements and Listing Policies

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants, or contaminants by expressly excluding some substances, such as petroleum, from the response program. In addition, CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing the site on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen to defer certain types of sites from the NPL even though CERCLA may provide authority to respond. For example, EPA has chosen not to list sites that result from contamination associated with facilities licensed by the Nuclear Regulatory Commission (NRC), on the grounds that NRC has the authority and expertise to clean up releases from those facilities (48 FR 40661, September 8, 1983). If, however, the Agency later determines that sites deferred as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The Agency has solicited comment on a policy to expand deferral to other Federal and State authorities (53 FR 51415, December 21, 1988); however, that policy is not currently in effect and has not been applied to sites in this rule. The Agency has committed not to implement any part of an expanded deferral policy until public and Congressional concerns have been fully reviewed and analyzed, and a decision reached on whether or not to implement such a policy.

The listing policies and statutory requirements of relevance to this final rule cover Resource Conservation and Recovery Act (RCRA) (U.S.C. 6901–6991i) sites, Federal facility sites, sites with "special study wastes," and radioactive mining waste sites. These and other listing policies and statutory requirements have been explained in previous rulemakings, the latest being February 21, 1990 (55 FR 6154).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

On June 10, 1986 (51 FR 21054), EPA announced a decision on components of a policy for the listing on the NPL of several categories of non-Federal sites subject to RCRA subtitle C corrective action authorities. Under the policy, sites not subject to RCRA subtitle C corrective action authorities will continue to be placed on the NPL. Examples of such sites include:

- Facilities that ceased treating, storing, or disposing of hazardous waste prior to November 19, 1980 (the effective date of Phase I of the Subtitle C regulations) and to which the RCRA corrective action or other authorities of Subtitle C cannot be applied.
- Sites at which only materials exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed.
- Contamination areas resulting from the activities of RCRA hazardous waste handlers to which RCRA Subtitle C corrective action authorities do not apply, such as hazardous waste generators or transporters, which are not required to have Interim Status or a final RCRA permit.

Further, the policy stated that certain RCRA sites at which subtitle C corrective action authorities are available also may be listed if they meet the criterion for listing (i.e., an HRS score of 28.50 or greater) and they fall within one of the following categories:

- Facilities whose owners have demonstrated an inability to finance corrective action as evidenced by their invocation of the bankruptcy laws.
- Facilities that have lost authorization to operate, and for which there are additional indications that the owner or operator will be unwilling to undertake corrective action.
- Facilities, analyzed on a case-by-case basis, whose owners or operators have a clear history or unwillingness to undertake corrective action.

On August 9, 1988 (53 FR 30005), EPA announced a policy for determining whether RCRA facilities are unwilling to perform corrective actions, and therefore should be proposed to the NPL. Additionally, on August 9, 1988 (53 FR 30002), EPA requested comment on a draft policy for determining when an owner/operator should be considered unable to pay for addressing the contamination at a RCRA-regulated site; that draft policy is still under review.

On June 24, 1988 (53 FR 23978), EPA announced its intent to list several other categories of RCRA facilities that the Agency considers appropriate for the NPL. These categories are non- or late filers, converters (i.e., facilities whose part A permits have been withdrawn), protective filers, and sites holding RCRA permits issued before enactment of the Hazardous and Solid Waste Amendments (HSWA) of 1984. (Further definition of these terms is contained in the June 24, 1988 policy announcement.) Consistent with this policy, 23 RCRA sites were placed on the final NPL on October 4, 1989 (54 FR 41000).

In this final rule, EPA is adding to the NPL five sites that are subject to RCRA subtitle C corrective action authorities. These sites are being placed on the NPL under the NPL/RCRA policy. Three sites are converters, one site has lost its RCRA authorization to operate and appears unwilling to undertake corrective action, and one site has contamination that may not be addressable under RCRA. Listing a site because of an unresolved question as to whether RCRA subtitle C corrective action authorities apply to all contamination associated with the site is consistent with EPA's NPL/RCRA policy (53 FR 23983, June 24, 1988).

In addition, EPA is not listing three sites under the NPL/RCRA policy because they can be addressed under RCRA Subtitle C corrective action authorities. Of these, one site was proposed as a pre-HSWA permittee, but is not being listed because the pre-HSWA permit has expired and the owner/operator is now subject to a new permit which includes corrective action requirements (see 54 FR 41006, October 4, 1989). Another site is a converter, but is not being listed because the owner/operator has agreed to corrective action under a RCRA consent corrective action order (see 54 FR 41005, October 4, 1989). The third site is a late filer, but is not being listed because the site has come within the RCRA system and demonstrated a history of compliance with RCRA regulations (see 54 FR 41005, October 4, 1989).

Releases From Federal Facility Sites

On March 13, 1989 (54 FR 10520), the Agency announced a policy for listing Federal facility sites, if they meet the prescribed eligibility criteria (*e.g.*, an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA subtitle C. In that way, cleanup, if appropriate, could be affected at those sites under CERCLA.

Federal facility sites are placed in a separate section of the NPL. This rule adds 23 Federal facility sites to the final NPL and drops one, bringing the total number of final Federal facilities sites to 116. No Federal facility sites remain proposed to the NPL.

Releases of Radioactive Materials

CERCLA section 101(22) excludes several types of releases of radioactive materials from the statutory definition of "release." These releases are therefore not eligible for CERCLA response actions or the NPL. The exclusions apply to (1) releases of source, by-product, or special nuclear material from a nuclear incident if these releases are subject to financial protection requirements under section 170 of the Atomic Energy Act, and (2) any release of source, by-product, or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). Accordingly, such radioactive releases have not been considered eligible for the NPL.

As a policy matter, EPA has also chosen not to list releases of source, by-product, or special nuclear material from any facility with a current license issued by the NRC, on the grounds that the NRC has full authority to require cleanup of releases from such facilities (48 FR 40658, September 8, 1983). EPA will, however, list releases from facilities that hold a current license issued by a State pursuant to an agreement between the State and the NRC under section 274 of the Atomic Energy Act. Facilities whose licenses are no longer in effect are also considered for listing.

In this final rule, EPA is adding to the NPL three sites with radioactive releases that meet EPA's criteria for the NPL. None of the three sites has releases that are excluded by statute from the NPL. The sites are also not excluded by EPA's NPL/NRC policy because they were not contaminated as a result of a NRC-licensed operation.

Releases of Special Study Wastes

Section 105(g) of CERCLA, as amended by SARA, requires EPA to consider certain factors before adding sites involving RCRA "special study wastes" to the NPL. Section 105(g) applies to sites that (1) were not on or proposed for the NPL as of October 17, 1986 and (2) contain significant quantities of special study wastes as defined under RCRA sections 3001(b)(2) [drilling fluids], 3001(b)(3)(A)(ii) [mining wastes], and 3001(b)(3)(A)(iii) [cement kiln dusts]. Before these sites can be added to the NPL, section 105(g) requires that the following information be considered:

- The extent to which the HRS score for the facility is affected by the presence of the special study waste at or released from the facility.
- Available information as to the quantity, toxicity, and concentration of hazardous substances that are constituents of any special study waste at, or released from, the facility; the extent of or potential for release of such hazardous constituents; the exposure or potential exposure to human population and environment; and the degree of hazard to human health or the environment posted by the release of such hazardous constituents at the facility.

This final rule includes 14 sites containing or potentially containing special study wastes subject to section 105(g). EPA has placed in the dockets an addendum that evaluates for each site the information called for in section 105(g). The addenda indicate that the special study wastes present a threat to human health and the environment, and that the sites should be added to the NPL.

CERCLA section 125, as amended by SARA, addresses specific special study wastes described in RCRA section 3001(b)(3)(A)(i) [fly ash and related wastes]. No sites in this rule are subject to section 125.

Response to Public Comments on Special Study Waste Sites

When EPA proposed to include on the NPL the special study waste sites in this final rule, the Agency received several public comments. The Agency's responses to site-specific comments are contained in the "Support Document for the Revised National Priorities List Final Rule—August 1990." (See section V of this final rule).

EPA also received general (i.e., non-site-specific) comments from one organization concerning the Agency's evaluation of sites with coal tar special study waste. A summary of the issues raised in these comments and the Agency's response was contained in the final rule published on February 21, 1990 (55 FR 6158). EPA's response generally applies to the coal tar and other special study waste sites included in this final rule as well.

V. Disposition of Sites in Today's Final Rule

This final rule promulgates 106 sites (Table 1) and removes 10 sites from several proposed rulemakings. These 116 sites are from the following proposed updates:

- Update #2 (49 FR 40320, October 15, 1984): 10 sites
- Update #5 (51 FR 21099, June 10, 1986): 2 sites
- Update #6 (52 FR 2492, January 22, 1987): 6 sites
- Update #7 (53 FR 23988, June 24, 1988): 54 sites
- Update #8 (54 FR 19526, May 5, 1989): 4 sites
- Update #9 (54 FR 29820, July 14, 1989): 17 sites
- Update #10 (54 FR 43776, October 26, 1989): 23 sites

EPA read all comments received on these sites, including late comments. In past rules, EPA responded even to late comments. However, given the volume and number of late comments received and the need to make final decisions on all currently proposed sites prior to the date that the revised HRS takes effect, EPA was not able to respond to all late comments received for sites in this rule. EPA has responded (in the Support Document) to those comments postmarked no later than October 31, 1988 for all sites included in this final rule that were proposed in Updates #2, 5, 6, and 7, to those comments postmarked no later than September 12, 1989 for sites in its final rule that were proposed in Update #8, to those comments postmarked no later than October 3, 1989 for sites in this final rule that were proposed in Update #9, and to those comments postmarked no later than February 6, 1990 for sites in this final rule that were proposed in Update #10. (EPA had previously indicated that it may no longer be able to consider late comments (53 FR 23990, June 24, 1988 and, most recently 54 FR 43779, October 26, 1989)). Although EPA has not responded to all late comments, it has read all late comments and endeavored to respond in the Support Document to those late comments that bring to the Agency's attention a fundamental error in the scoring of a site. In addition, the Agency has routinely responded to late comments resulting from EPA correspondence that provided commenters with more recent data or requested that the commenters be more specific in their comments.

TABLE 1.—NATIONAL PRIORITIES LIST, NEW FINAL SITES (BY RANK)

[August 1990]

NPL		St	Site name	City/ county
Gr [1]	Rank			
2	68	IA	Lehigh Portland Cement Co.	Mason City.
2	72	ID	Eastern Michaud Flats Contamin.	Pocatello.
2	74	IA	Northwestern States Portland Cem.	Mason City.
2	78	PA	Salford Quarry	Salford Township.
3	114	ID	Monsanto Chemical (Soda Springs).	Soda Springs.
4	159	WA	Seattle Mun Lndfll (Kent Hghlnds).	Kent.

TABLE 1.—NATIONAL PRIORITIES LIST, NEW FINAL SITES (BY RANK)—Continued

[August 1990]

NPL Gr [1]	NPL Rank	St	Site name	City/county
4	164	IL	Beloit Corp	Rockton.
4	176	IN	Whiteford Sales&Ser/Nationalease.	South Bend.
4	188	CA	Industrial Waste Processing.	Fresno.
5	205	IL	MIG/Dewane Landfill.	Belvidere.
5	223	WI	Better Brite Chrome & Zinc Shops.	DePere.
6	284	IA	Peoples Natural Gas Co.	Dubuque.
6	285	MO	Oronogo-Duenweg Mining Belt.	Jasper County.
6	293	AR	Monroe Auto Equip (Paragould Pit).	Paragould.
6	295	IA	E.I. Du Pont (County Rd X23).	West Point.
7	332	AL	T.H. Agricul & Nutri (Montgomery).	Montgomery.
7	335	CA	Sulphur Bank Mercury Mine.	Clear Lake.
7	339	NM	Prewitt Abandoned Refinery.	Prewitt.
7	344	MI	Peerless Plating Co.	Muskegon.
7	347	KY	Fort Hartford Coal Co Stone Qurry.	Olaton.
8	356	IA	White Farm Equipment Co. Dump.	Charles City.
9	413	PA	Ohio River Park	Neville Island.
9	414	GA	Woolfolk Chemical Works, Inc.	Fort Valley
9	416	IN	Tippecanoe Sanitary Landfill, Inc.	Lafayette.
9	417	IN	Conrail Rail Yard (Elkhart).	Elkhart.
9	423	MN	Dakhue Sanitary Landfill.	Cannon Falls.
9	428	SD	Williams Pipe Line Disposal Pit.	Sioux Falls.
9	436	AK	Arctic Surplus	Fairbanks.
9	447	UT	Sharon Steel (Midvale Tailings).	Midvale.
10	453	PA	Westinghouse Elec (Sharon Plant).	Sharon.
11	505	CA	Western Pacific Railroad Co..	Oroville.
11	513	IL	Kerr-McGee (Reed-Keppler Park).	West Chicago.
11	516	FL	Woodbury Chemical (Princeton Plant).	Princeton.
11	521	AZ	Apache Powder Co.	St. David.

TABLE 1.—NATIONAL PRIORITIES LIST, NEW FINAL SITES (BY RANK)—Continued

[August 1990]

NPL Gr [1]	NPL Rank	St	Site name	City/county
11	522	NV	Carson River Mercury Site.	Lyon/Churchill Cnty.
11	542	TX	Tex-Tin Corp	Texas City.
12	554	IL	Kerr-McGee (Residential Areas).	W Chic/DuPage Cnty.
12	564	IA	Fairfield Coal Gasification Plant.	Fairfield.
12	570	NJ	Chemical Insecticide Corp.	Edison Township.
12	573	DE	Chem-Solv, Inc	Cheswold.
12	575	FL	Madison County Sanitary Landfill.	Madison.
12	584	CO	Chemical Sales Co.	Denver.
12	587	CA	Hexcel Corp	Livermore.
12	588	CA	Crazy Horse Sanitary Landfill.	Salinas.
12	589	OR	Union Pacific Railroad Tie Treat.	The Dalles.
13	635	VA	Abex Corp	Portsmouth.
13	637	MI	Allied Paper/Portage Ck/Kalamaz R.	Kalamazoo.
13	640	WA	Centralia Municipal Landfill.	Centralia.
14	660	GA	Diamond Shamrock Corp. Landfill.	Cedartown.
14	662	CT	Cheshire Ground Water Contamin.	Cheshire.
14	699	FL	B&B Chemical Co., Inc.	Hialeah.
15	703	FL	BMI-Textron	Lake Park.
15	709	IL	Kerr-McGee (Sewage Treat Plant).	West Chicago.
15	748	KY	Caldwell Lace Leather Co., Inc.	Auburn.
15	750	IL	Adams County Quincy Landfills 2&3.	Quincy.
16	791	LA	Combustion, Inc	Denham Springs.
16	799	IA	Farmers' Mutual Cooperative.	Hospers.
17	806	IA	Sheller-Globe Corp. Disposal.	Keokuk.
17	814	DE	Kent County Landfill (Houston).	Houston.
17	826	DE	Koppers Co., Inc. (Newport Plant).	Newport.
17	829	NJ	Lodi Municipal Well.	Lodi.
17	838	DE	Sealand Limited	Mount Pleasant.

TABLE 1.—NATIONAL PRIORITIES LIST, NEW FINAL SITES (BY RANK)—Continued

[August 1990]

NPL Gr [1]	NPL Rank	St	Site name	City/county
17	845	SC	Para-Chem Southern, Inc.	Simpsonville.
18	854	WA	North Market Street.	Spokane.
18	868	PA	Paoli Rail Yard	Paoli.
18	874	WY	Mystery Bridge Rd/U.S. Highway 20.	Evansville.
18	895	NE	Nebraska Ordnance Plant (Former).	Mead.
19	901	CA	Advanced Micro Devices (Bldg. 915).	Sunnyvale.
19	922	OH	Reilly Tar & Chemical (Dover Plnt).	Dover.
19	942	FL	Anaconda Aluminum/Milgo Electron.	Miami.
19	950	TN	Murray-Ohio Mfg (Horseshoe Bend).	Lawrenceburg.
20	952	NJ	Higgins Disposal	Kingston.
20	990	MI	Cannelton Industries, Inc.	Sault Sainte Marie.
20	1000	NC	Hevi-Duty Electric Co.	Goldsboro.
21	1003	MO	Westlake Landfill.	Bridgeton.
21	1022	NY	Sealand Restoration, Inc.	Lisbon.
21	1030	KY	Green River Disposal, Inc.	Maceo.
21	1034	IL	Central Illinois Public Serv Co.	Taylorville.
21	1045	PA	Dublin TCE Site	Dublin Borough.
21	1047	WI	Waste Management (Brookfield Lfl).	Brookfield.
21	1049	NE	10th Street Site	Columbus.
22	1052	CA	Watkins-Johnson Co. (Stewart Div).	Scotts Valley.
22	1053	CA	Intersil Inc./Siemens Components.	Cupertino.

Number of New Final Sites: 83.

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

NATIONAL PRIORITIES LIST, FEDERAL FACILITY SITES, NEW FINAL (BY GROUP)

[August 1990]

NPL Gr [1]	St	Site name	City/county
3	ID	Mountain Home Air Force Base.	Mountain Home.
3	WA	Bangor Naval Submarine Base.	Silverdale.

NATIONAL PRIORITIES LIST, FEDERAL FACILITY SITES, NEW FINAL (BY GROUP)—Continued

[August 1990]

NPL Gr [1]	St	Site name	City/county
3	UT	Tooele Army Depot (North Area).	Tooele.
6	AK	Standard Steel & Met Sal Yd (USDOT).	Anchorage.
7	AK	Elmendorf Air Force Base.	Greater Anchorage Bor.
8	AK	Fort Wainwright	Fairbanks N Star Bor.
8	FL	Homestead Air Force Base.	Homestead.
10	TX	Air Force Plant #4 Gener Dynamics.	Fort Worth.
11	TX	Longhorn Army Ammunition Plant.	Karnack.
11	NJ	Federal Aviation Admin Tech Cent.	Atlantic County.
11	NM	Lee Acres Landfill (USDOI).	Farmington.
12	PA	Tobyhanna Army Depot.	Tobyhanna.
12	AZ	Luke Air Force Base	Glendale.
13	CT	New London Submarine Base.	New London.
13	CA	Tracy Defense Depot.	Tracy.
14	NY	Seneca Army Depot	Romulus.
16	KS	Fort Riley	Junction City.
17	CA	Edwards Air Force Base.	Kern County.
17	SD	Elisworth Air Force Base.	Rapid City.
19	CA	Lawrence Livermore Lab-300 (USDOE).	Livermore.
21	NJ	Naval Weapons Stat Earle (Site A).	Colts Neck.
21	IA	Iowa Army Ammunition Plant.	Middletown.
22	HI	Schofield Barracks	Oahu.

Number of New Final Federal Facility Sites: 23.

*State top priority site.
[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

Based on the comments received on the proposed sites, as well as investigation by EPA and the States (generally in response to comment) EPA recalculated the HRS scores for individual sites where appropriate. Where the public comments or additional information dropped a score below 28.50, the site has been removed from the NPL. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List Final Rule—August 1990."

RCRA Sites

Three sites are subject to subtitle C corrective action authorities, but the Part A permits have been withdrawn (converter status). These sites are being added to the final NPL consistent with the NPL/RCRA policy:

- Advanced Micro Devices (Building 915), Sunnyvale, California (converter)
- Hexcel Corp., Livermore, California (converter)
- Westinghouse Electric Corp. (Sharon Plant), Sharon, Pennsylvania (converter)

One site is being listed, consistent with the NPL/RCRA policy, because the contamination may not be addressable under RCRA subtitle C corrective action authorities:

- Apache Powder Co., St. David, Arizona

Based on the NPL/RCRA policy announced on June 10, 1986 (51 FR 21057) and in effect at the time of proposal, one site is being listed because it has lost its RCRA authorization to operate and appears unwilling to undertake corrective action:

- Chem-Solv, Inc., Cheswold, Delaware

One site is not being listed because it is a late-filer that has come within the RCRA system and demonstrated a history of compliance with RCRA regulations:

- Kearney-KPF, Stockton, California (late filer)

One site is not being listed because it now is subject to a post-HSWA permit that includes corrective action requirements:

- Solvent Service, Inc., San Jose, California

One site is not being listed because it is a converter that has agreed to corrective action under a RCRA consent corrective action order:

- Warner Electric Brake & Clutch Co., Roscoe, Illinois

Documentation supporting EPA's decisions on these sites is available in the Support Document.

Federal Facility Sites

This final rule adds 23 Federal facility sites to the NPL (Table 1) and drops 1 from the proposed NPL.

Radioactive Release Sites

Three sites with radioactive releases are being added to the final NPL consistent with the NPL/NRC policy because the sites were not contaminated as a result of a NRC-licensed operation:

- Kerr-McGee (Reed-Keppler Park), West Chicago, Illinois
- Kerr-McGee (Residential Areas), West Chicago/DuPage County, Illinois
- Kerr-McGee (Sewage Treatment Plant), West Chicago, Illinois

Special Study Waste Sites

Fourteen sites containing or possibly containing special study wastes are being added to the NPL in this rule.

- Sulphur Bank Mercury Mine, Clear Lake, California (mining wastes)
- Sealand Limited, Mount Pleasant, Delaware (coal tar wastes)
- Eastern Michaud Flats Contamination, Pocatello, Idaho (mining wastes)
- Monsanto Chemical Co. (Soda Springs Plant), Soda Springs, Idaho (mining wastes)
- Central Illinois Public Service Co., Taylorville, Illinois (coal tar wastes)
- Fairfield Coal Gasification Plant, Fairfield, Iowa (coal tar wastes)
- Lehigh Portland Cement Co., Mason City, Iowa (cement kiln dust)
- Northwestern States Portland Cement Co., Mason City, Iowa (cement kiln dust)
- Peoples Natural Gas Co., Dubuque, Iowa (coal tar wastes)
- Oronogo-Duenweg Mining Belt, Jasper County, Missouri (mining wastes)
- Lee Acres Landfill (USDOI), Farmington, New Mexico (drilling muds and produced waters)
- Carson River Mercury Site, Lyon/Churchill Counties, Nevada (mining wastes)
- Reilly Tar & Chemical Corp. (Dover Plant), Dover, Ohio (coal tar wastes)
- Tex-Tin Corp., Texas City, Texas (mining wastes)

Score Revisions

EPA has revised the HRS scores for 37 sites based on its review of comments and additional information developed by EPA and the States (Table 2). Some of the changes have placed the sites in different groups of 50 sites. For seven of these sites, the public comments have resulted in scores below the cut-off of 28.50. Accordingly, these sites are being dropped from the proposed NPL at this time:

- Magnolia City Landfill, Magnolia, Arkansas
- Concord Naval Weapons Station, Concord, California
- Ford Motor Co. (Sludge Lagoon), Ypsilanti, Michigan
- Gautier Oil Co., Inc., Gautier, Mississippi
- Sunray Oil Co. Refinery, Allen, Oklahoma
- Rio Grande Oil Co. Refinery, Sour Lake, Texas
- Fort Howard Paper Co. (Sludge Lagoons), Green Bay, Wisconsin

TABLE 2.—SITES WITH HRS SCORE CHANGES

State/site name	Location	HRS score	
		Proposed	Final
AR/Magnolia City Landfill.	Magnolia	29.49	(1)
AZ/Apache Powder Co.	St. David	49.74	39.09

TABLE 2.—SITES WITH HRS SCORE CHANGES—Continued

State/site name	Location	HRS score	
		Proposed	Final
CA/Concord Naval Weapon Station.	Concord	29.92	(1)
CA/Crazy Horse Sanitary Landfill.	Salinas	39.92	37.93
CA/Intersil Inc./ Siemens Components.	Cupertino	37.79	28.90
CA/Sulphur Bank Mercury Mine.	Clear Lake.	46.59	44.42
CA/Tracy Defense Depot.	Tracy	31.12	37.16
CA/Watkins-Johnson Co. (Stewart Division).	Scotts Valley.	44.46	28.90
CT/Cheshire Ground Water Contamination.	Cheshire	36.11	35.57
DE/Kent County Landfill (Houston).	Houston	38.11	33.62
FL/BMI-Textron	Lake Park.	37.93	35.34
FL/Woodbury Chemical Co (Princeton Plant).	Princeton	39.76	39.43
IA/Fairfield Coal Gasification Plant.	Fairfield	33.76	38.05
IA/Northwestern States Portland Cement Co.	Mason City.	58.18	57.80
IA/Sheller-Globe Corp. Disposal.	Keokuk	35.42	33.66
IA/White Farm Equipment Co. Dump.	Charles City.	53.42	43.40
IL/Beloit Corp.	Rockton	40.15	52.08
IL/Central Illinois Public Service Co.	Taylorville.	48.91	28.95
KY/Green River Disposal, Inc.	Maceo	31.24	29.12
MI/Ford Motor Co. (Sludge Lagoon).	Ypsilanti	31.55	(1)
MI/Peerless Plating Co.	Muskegon.	38.95	43.94
MO/Oronogo-Duenweg Mining Belt.	Jasper County.	46.33	46.20
MS/Gautier Oil Co., Inc.	Gautier	29.79	(1)
NC/Hevi-Duty Electric Co.	Goldsboro.	32.05	29.88
NJ/Higgins Disposal.	Kingston	35.73	30.87
NJ/Naval Weapons Station Earle (Site A).	Colts Neck.	37.21	29.65
NM/Lee Acres Landfill (USDOI).	Farmington.	37.01	39.37
NM/Prewitt Abandoned Refinery.	Prewitt	29.49	44.24
NY/Seneca Army Depot.	Romulus	37.30	35.52
OK/Sunray Oil Co. Refinery.	Allen	35.47	(1)
PA/Ohio River Park.	Neville Island.	49.27	42.24
TN/Murray-Ohio Manufacturing Co. (Horseshoe Bend Dump).	Lawrenceburg.	40.27	30.93
TX/Rio Grande Oil Co. Refinery.	Sour Lake.	36.80	(1)
UT/Sharon Steel Corp. (Midvale Tailings).	Midvale	73.49	41.85
UT/Toole Army Depot (North Area).	Tooele	38.32	53.95
WI/Fort Howard Paper Co. Sludge Lagoons.	Green Bay.	30.83	(1)
WY/Mystery Bridge Rd/U.S. Highway 20.	Evansville.	45.22	32.10

[1] Score indeterminate but below 28.50.

Name Revisions

The names of two sites addressed in this final rule have been changed in response to information received during the comment period. The changes are intended to reflect more accurately the location, nature, or potential sources of contamination at the sites:

- Cheshire Ground Water Contamination (formerly Cheshire Associates Property), Cheshire, Connecticut
- North Market Street (formerly Tosco Corp. (Spokane Terminal)), Spokane, Washington

VI. Disposition of All Proposed Sites/ Federal Facility Sites

To date, EPA has proposed 10 major updates to the NPL. This rule results in a total of 20 non-Federal sites that continue to be proposed pending completion of response to comment, resolution of technical issues, and resolution of various policy issues (Table 3). All sites that remain proposed will be considered for future final rules. Although these sites remain proposed, the comment periods have not been extended or reopened.

TABLE 3.—NPL PROPOSALS

Update #	Date/Federal Register citation	Number of sites/ Federal facility sites	
		Proposed	Remaining proposed
1	9/8/83 48 FR 40674	132/1	1/0
2	10/15/84 49 FR 40320	208/36	11/0
3	4/10/85 50 FR 14115	26/6	0/0
4	9/18/85 50 FR 37950	38/3	0/0
5	6/10/86 51 FR 21099	43/2	2/0
6	1/22/87 52 FR 2492	63/1	1/0
7	6/24/88 53 FR 23988	215/14	4/0
8	5/5/89 54 FR 19526	10/0	0/0
9	7/14/89 54 FR 29820	0/52	0/0
10	10/26/89 54 FR 43778	23/2	1/0
ATSDR	8/16/89 54 FR 33846	2/0	0/0
Total		760/117	20/0

TABLE 3.—NPL PROPOSALS—Continued

Update #	Date/Federal Register citation	Number of sites/ Federal facility sites	
		Proposed	Remaining proposed
3	4/10/85 50 FR 14115	26/6	0/0
4	9/18/85 50 FR 37950	38/3	0/0
5	6/10/86 51 FR 21099	43/2	2/0
6	1/22/87 52 FR 2492	63/1	1/0
7	6/24/88 53 FR 23988	215/14	4/0
8	5/5/89 54 FR 19526	10/0	0/0
9	7/14/89 54 FR 29820	0/52	0/0
10	10/26/89 54 FR 43778	23/2	1/0
ATSDR	8/16/89 54 FR 33846	2/0	0/0
Total		760/117	20/0

VII. Contents of the NPL

The 106 new sites added to the NPL in this rule (Table 1) have been incorporated into the NPL in order of their HRS scores except where EPA modified the order to reflect top priorities designated by the States, as discussed in greater detail in previous rules, the most recent on March 31, 1989 (54 FR 13296).

The NPL appears at the end of this final rule and will be codified as part of appendix B to the NCP. Sites on the NPL are arranged according to their scores on the HRS. The NPL is presented in groups of 50 sites to emphasize that minor differences in HRS scores do not necessarily represent significantly different levels of risk. Except for the first group, the score range within the groups, as indicated in the list, is less than 4 points. EPA considers the sites within a group to have approximately the same priority for response actions. For convenience, the sites are numbered.

The following three sites previously were placed on the NPL because they met the requirements of the NCP at § 300.425(c)(3), as explained in section III of this rule:

- Forest Glen Mobile Home Subdivision, Niagara Falls, New York
- Radium Chemical Co., Inc., New York, New York
- Lansdowne Radiation Site, Lansdowne, Pennsylvania

These sites have HRS scores less than 28.50 and appear at the end of the list.

This rule adds 23 new sites to the Federal facility section of the NPL by group number.

VIII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of economic implications of this amendment to the NCP. EPA believes that the kinds of economic effects associated with this revision generally are similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to adding these 106 sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

EPA has determined that this rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in this rulemaking.

The major events that follow the proposed listing of a site on the NPL are a search for potentially responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may bear some or all the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs.

The State cost share for site cleanup activities has been amended by section 104 of SARA. For privately-owned sites, as well as for publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. For publicly-operated sites, the State cost share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in startup costs according to the criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.
- For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes full responsibilities for O&M.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS), remedial design, remedial action, and O&M) on an average per site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, there is wide variation in costs for individual sites, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site [1]
RI/FS	1,300,000
Remedial Design	1,500,000
Remedial Action	[2] 25,000,000
Net present value of O&M [3]	[2] 3,770,000

[1] 1988 U.S. Dollars.
[2] Includes State cost-share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

SOURCE: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA.

Costs to States associated with today's final rule arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites that are publicly-owned but not publicly-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites. States will assume the cost for O&M after EPA's period of participation. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the 83 non-Federal sites added to the NPL in this rule will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions, but excluding O&M costs, would be approximately $301.6 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share startup costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately $265.5 million.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: The volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this amendment on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's amendment placing additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of

potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Listing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these sites.

IX. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The placing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. Placing a site on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected business at this time nor estimate the number of small businesses that might be affected.

The Agency does not expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the listing of these 83 non-Federal sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: August 22, 1990.

Mary Gade,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321(c)(2); E.O. 11735 (38 FR 21243); E.O. 12580 (52 FR 2923).

2. Appendix B of part 300 is revised to read as set forth below.

Appendix B—National Priorities List

NATIONAL PRIORITIES LIST (BY RANK)

[August 1990]

NPL rank	EPA reg.	St	Site name	City/ county
Group 1 (HRS Scores 75.60–58.54)				
1	02	NJ	Lipari Landfill	Pitman.
2	03	DE	Tybouts Corner Landfill*.	New Castle County.
3	03	PA	Bruin Lagoon	Bruin Borough.
4	02	NJ	Helen Kramer Landfill.	Mantua Township.
5	01	MA	Industri-Plex	Woburn.
6	02	NJ	Price Landfill*	Pleasantville.
7	02	NY	Pollution Abatement Services*.	Oswego.
8	07	IA	LaBounty Site	Charles City.
9	03	DE	Army Creek Landfill.	New Castle County.
10	02	NJ	CPS/Madison Industries.	Old Bridge Township.
11	01	MA	Nyanza Chemical Waste Dump.	Ashland.
12	02	NJ	GEMS Landfill	Gloucester Township.
13	05	MI	Berlin & Farro	Swartz Creek.
14	01	MA	Baird & McGuire	Holbrook.
15	02	NJ	Lone Pine Landfill.	Freehold Township.
16	01	NH	Somersworth Sanitary Landfill.	Somersworth.
17	05	MN	FMC Corp. (Fridley Plant).	Fridley.
18	06	AR	Vertac, Inc	Jacksonville.
19	01	NH	Keefe Environmental Services.	Epping.
20	08	MT	Silver Bow Creek/Butte Area.	Sil Bow/ Deer Lodge.
21	08	SD	Whitewood Creek*.	Whitewood.
22	06	TX	French, Ltd	Crosby.
23	05	MI	Liquid Disposal, Inc.	Utica.
24	01	NH	Sylvester*	Nashua.
25	03	PA	Tysons Dump	Upper Merion Twp.
26	03	PA	McAdoo Associates*.	McAdoo Borough.
27	06	TX	Motco, Inc.*	La Marque.
28	05	OH	Arcanum Iron & Metal.	Darke County.
29	08	MT	East Helena Site	East Helena.
30	06	TX	Sikes Disposal Pits.	Crosby.
31	04	AL	Triana/ Tennessee River.	Limestone/ Morgan.
32	09	CA	Stringfellow*	Glen Avon Heights.
33	01	ME	McKin Co	Gray.
34	06	TX	Crystal Chemical Co.	Houston.
35	02	NJ	Bridgeport Rental & Oil Services.	Bridgeport.
36	08	CO	Sand Creek Industrial.	Commerce City.
37	06	TX	Geneva Industries/ Fuhrmann Energy.	Houston.
38	01	MA	W.R. Grace & Co Inc (Acton Plant).	Acton.
39	05	MN	New Brighton/ Arden Hills.	New Brighton.
40	05	MN	Reilly Tar (St. Louis Park Plant)*.	St. Louis Park.
41	02	NJ	Vineland Chemical Co., Inc.	Vineland.
42	02	NJ	Burnt Fly Bog	Marlboro Township.
43	04	FL	Schuylkill Metals Corp.	Plant City.
44	03	PA	Publicker Industries Inc.	Philadelphia.
45	02	NY	Old Bethpage Landfill.	Oyster Bay.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

[August 1990]

NPL rank	EPA reg.	St	Site name	City/ county
15	02	NJ	Lone Pine Landfill.	Freehold Township.
16	01	NH	Somersworth Sanitary Landfill.	Somersworth.
17	05	MN	FMC Corp. (Fridley Plant).	Fridley.
18	06	AR	Vertac, Inc	Jacksonville.
19	01	NH	Keefe Environmental Services.	Epping.
20	08	MT	Silver Bow Creek/Butte Area.	Sil Bow/ Deer Lodge.
21	08	SD	Whitewood Creek*.	Whitewood.
22	06	TX	French, Ltd	Crosby.
23	05	MI	Liquid Disposal, Inc.	Utica.
24	01	NH	Sylvester*	Nashua.
25	03	PA	Tysons Dump	Upper Merion Twp.
26	03	PA	McAdoo Associates*.	McAdoo Borough.
27	06	TX	Motco, Inc.*	La Marque.
28	05	OH	Arcanum Iron & Metal.	Darke County.
29	08	MT	East Helena Site	East Helena.
30	06	TX	Sikes Disposal Pits.	Crosby.
31	04	AL	Triana/ Tennessee River.	Limestone/ Morgan.
32	09	CA	Stringfellow*	Glen Avon Heights.
33	01	ME	McKin Co	Gray.
34	06	TX	Crystal Chemical Co.	Houston.
35	02	NJ	Bridgeport Rental & Oil Services.	Bridgeport.
36	08	CO	Sand Creek Industrial.	Commerce City.
37	06	TX	Geneva Industries/ Fuhrmann Energy.	Houston.
38	01	MA	W.R. Grace & Co Inc (Acton Plant).	Acton.
39	05	MN	New Brighton/ Arden Hills.	New Brighton.
40	05	MN	Reilly Tar (St. Louis Park Plant)*.	St. Louis Park.
41	02	NJ	Vineland Chemical Co., Inc.	Vineland.
42	02	NJ	Burnt Fly Bog	Marlboro Township.
43	04	FL	Schuylkill Metals Corp.	Plant City.
44	03	PA	Publicker Industries Inc.	Philadelphia.
45	02	NY	Old Bethpage Landfill.	Oyster Bay.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

[August 1990]

NPL rank	EPA reg.	St	Site name	City/ county
46	04	FL	Reeves Southeast Galvanizing Corp.	Tampa.
47	02	NJ	Shieldalloy Corp	Newfield Borough.
48	08	MT	Anaconda Co. Smelter.	Anaconda.
49	10	WA	Western Processing Co., Inc.	Kent.
50	05	WI	Omega Hills North Landfill.	Germantown.
Group 2 (HRS Scores 58.41–57.80, except for State top priority sites)				
51	04	FL	American Creosote (Pensacola Plt).	Pensacola.
52	02	NJ	Caldwell Trucking Co.	Fairfield.
53	02	NY	GE Moreau	South Glen Falls.
54	05	IN	Seymour Recycling Corp.*.	Seymour.
55	04	FL	Peak Oil Co./ Bay Drum Co.	Tampa.
56	05	OH	United Scrap Lead Co., Inc.	Troy.
57	07	KS	Cherokee County	Cherokee County.
58	06	OK	Tar Creek (Ottawa County).	Ottawa County.
59	02	NJ	Brick Township Landfill.	Brick Township.
60	02	NJ	Brook Industrial Park.	Bound Brook.
61	05	MI	American Anodco, Inc.	Ionia.
62	10	WA	Frontier Hard Chrome, Inc.	Vancouver.
63	05	WI	Janesville Old Landfill.	Janesville.
64	05	MI	Northernaire Plating.	Cadillac.
65	04	SC	Independent Nail Co.	Beaufort.
66	05	WI	Janesville Ash Beds.	Janesville.
67	04	SC	Kalama Specialty Chemicals.	Beaufort.
68	07	IA	Lehigh Portland Cement Co.	Mason City.
69	04	FL	Davie Landfill	Davie.
70	05	OH	Miami County Incinerator.	Troy.
71	10	WA	ALCOA (Vancouver Smelter).	Vancouver.
72	10	ID	Eastern Michaud Flats Contamin.	Pocatello.
73	09	AZ	Tucson International Airport Area.	Tucson.
74	07	IA	Northwestern States Portland Cem.	Mason City.
75	05	WI	Wheeler Pit	La Prairie Township.
76	05	IN	International Minerals (E. Plant).	Terre Haute.
77	04	FL	Gold Coast Oil Corp.	Miami.
78	03	PA	Salford Quarry	Salford Township.
79	05	MI	Gratiot County Landfill*.	St. Louis.
80	01	RI	Picillo Farm*	Coventry.
81	01	MA	New Bedford Site*.	New Bedford.
82	06	LA	Old Inger Oil Refinery*.	Darrow.
83	05	OH	Chem-Dyne*	Hamilton.
84	04	SC	SCRDI Bluff Road*.	Columbia.
85	01	CT	Laurel Park, Inc.*	Naugatuck Borough.
86	08	CO	Marshall Landfill*	Boulder County.
87	05	IL	Outboard Marine Corp.*.	Waukegan.
88	06	NM	South Valley*	Albuquerque.
89	01	VT	Pine Street Canal*.	Burlington.
90	03	WV	West Virginia Ordnance*.	Point Pleasant.
91	07	MO	Ellisville Site*	Ellisville.
92	08	ND	Arsenic Trioxide Site*.	Southeastern ND.
93	07	IA	Aidex Corp.*	Council Bluffs.
94	05	WI	N.W. Mauthe Co., Inc.*.	Appleton.
95	04	TN	North Hollywood Dump*.	Memphis.
96	04	KY	A.L. Taylor (Valley of Drums)*.	Brocks.
97	09	GU	Ordot Landfill*	Guam.
98	04	MS	Flowood Site*	Flowood.
99	08	UT	Rose Park Sludge Pit*.	Salt Lake City.
100	07	KS	Arkansas City Dump*.	Arkansas City.
Group 3 (HRS Scores 57.80–52.58)				
101	10	WA	General Electric (Spokane Shop).	Spokane.
102	09	CA	Operating Industries, Inc. Lndfll.	Monterey Park.
103	02	NY	Wide Beach Development.	Brant.
104	09	CA	Iron Mountain Mine.	Redding.
105	02	NJ	Scientific Chemical Processing.	Carlstadt.
106	08	CO	California Gulch	Leadville.
107	02	NJ	D'Imperio Property.	Hamilton Township.
108	05	MN	Oakdale Dump	Oakdale.
109	05	IL	Parsons Casket Hardware Co..	Belvidere.
110	05	IL	A & F Material Reclaiming, Inc.	Greenup.
111	03	PA	Douglassville Disposal.	Douglassville.
112	05	MN	Koppers Coke	St. Paul.
113	01	MA	Plymouth Harbor/ Cannon Eng. Corp.	Plymouth.
114	10	ID	Monsanto Chemical (Soda Springs).	Soda Springs.
115	10	ID	Bunder Hill Mining & Metallurg.	Smelterville.
116	02	NY	Hudson River PCBs.	Hudson River.
117	02	NJ	Universal Oil Products (Chem Div).	East Rutherford.
118	09	CA	Aerojet General Corp.	Rancho Cordova.
119	10	WA	Com Bay, South Tacoma Channel.	Tacoma.
120	03	PA	Osborne Landfill	Grove City.
121	08	UT	Portland Cement (Kiln Dust 2 & 3).	Salt Lake City.
122	01	CT	Old Southington Landfill.	Southington.
123	02	NY	Syosset Landfill	Oyster Bay.
124	02	NY	Circuitron Corp	East Farmingdale.
125	09	AZ	Nineteenth Avenue Landfill.	Phoenix.
126	10	OR	Teledyne Wah Chang.	Albany.
127	10	WA	Midway Landfill	Kent.
128	02	NY	Sinclair Refinery	Wellsville.
129	04	AL	Mowbray Engineering Co.	Greenville.
130	05	MI	Spiegelberg Landfill.	Green Oak Township.
131	04	FL	Miami Drum Services.	Miami.
132	02	NJ	Reich Farms	Pleasant Plains.
133	10	ID	Union Pacific Railroad Co..	Pocatello.
134	02	NJ	South Brunswick Landfill.	South Brunswick.
135	03	PA	Raymark	Hatboro.
136	04	AL	Ciba-Geigy Corp. (McIntosh Plant).	McIntosh.
137	04	FL	Kassauf-Kimerling Battery.	Tampa.
138	05	IL	Wauconda Sand & Gravel.	Wauconda.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

[August 1990]

NPL rank	EPA reg.	St	Site name	City/ county
139	05	MI	Bofors Nobel, Inc.	Muskegon.
140	06	TX	Bailey Waste Disposal.	Bridge City.
141	01	NH	Ottati & Goss/ Kingston Steel Drum.	Kingston.
142	05	MI	Ott/Story/ Cordova Chemical Co..	Dalton Township.
143	05	MI	Thermo-Chem, Inc.	Muskegon.
144	09	CA	Brown & Bryant, Inc. (Arvin Plant).	Arvin.
145	03	VA	Greenwood Chemical Co..	Newtown.
146	02	NJ	NL Industries	Pedricktown.
147	05	MN	St. Regis Paper Co.	Cass Lake.
148	04	KY	Brantley Landfill	Island.
149	04	NC	Aberdeen Pesticide Dumps.	Aberdeen.
150	01	VT	Burgess Brothers Landfill.	Woodford.
Group 4 (HRS Scores 52.58–50.23)				
151	02	NJ	Ringwood Mines/Landfill.	Ringwood Borough.
152	04	FL	Whitehouse Oil Pits.	Whitehouse.
153	04	GA	Hercules 009 Landfill.	Brunswick.
154	02	NY	Jones Sanitation	Hyde Park.
155	01	VT	Parker Sanitary Landfill.	Lyndon.
156	05	MI	Velsicol Chemical Corp. . (Michigan).	St. Louis.
157	05	OH	Summit National	Deerfield Township.
158	02	NY	Love Canal	Niagara Falls.
159	10	WA	Seattle Mun Lndfil (Kent Highlnds).	Kent.
160	03	DE	Coker's Sanitation Service Lndfls.	Kent County.
161	05	MI	Rockwell International (Allegan).	Allegan.
162	05	MN	Pine Bend Sanitary Landfill.	Dakota County.
163	07	IA	Lawrence Todtz Farm.	Camanche.
164	05	IL	Beloit Corp.	Rockton.
165	05	IN	Fisher-Calo	LaPorte.
166	04	FL	Pioneer Sand Co..	Warrington.
167	05	MI	Springfield Township Dump.	Davisburg.
168	03	PA	Hranica Landfill	Buffalo Township.
169	04	NC	Martin-Marietta, Sodyeco, Inc.	Charlotte.
170	03	DE	E.I. Du Pont (Newport Plant Lf).	Newport.
171	03	PA	Hellertown Manufacturing Co..	Hellertown.
172	04	FL	Zellwood Ground Water Contamin.	Zellwood.
173	05	MI	Packaging Corp. of America.	Filer City.
174	05	WI	Muskego Sanitary Landfill.	Muskego.
175	10	ID	Kerr-McGee Chemical (Soda Springs).	Soda Springs.
176	05	IN	Whiteford Sales & Ser/National Lease.	South Bend.
177	02	NY	Hooker (S Area)	Niagara Falls.
178	03	PA	Lindane Dump	Harrison Township.
179	08	CO	Central City-Clear Creek.	Idaho Springs.
180	02	NJ	Ventrol/Velsicol	Wood Ridge Borough.
181	04	FL	Taylor Road Landfill.	Seffner.
182	01	RI	Western Sand & Gravel.	Burrillville.
183	02	NY	Rosen Brothers Scrap Yard/ Dump.	Cortland.
184	04	SC	Koppers Co Inc (Florence Plant).	Florence.
185	02	NJ	Maywood Chemical Co.	Maywood/ Rochelle Pk.
186	02	NJ	Nascolite Corp.	Millville.
187	05	OH	Industrial Excess Landfill.	Uniontown.
188	09	CA	Industrial Waste Processing.	Fresno.
189	06	OK	Hardage/Criner	Criner.
190	05	MI	Rose Township Dump.	Rose Township.
191	05	MN	Waste Disposal Engineering.	Andover.
192	02	NY	Liberty Industrial Finishing.	Farmingdale.
193	02	NJ	Kin-Buc Landfill	Edison Township.
194	05	IN	Waste, Inc., Landfill.	Michigan City.
195	05	OH	Bowers Landfill	Circleville.
196	06	TX	Brio Refining, Inc..	Friendswood.
197	02	NJ	Ciba-Geigy Corp.	Toms River.
198	05	MI	Butterworth #2 Landfill.	Grand Rapids.
199	02	NJ	American Cyanamid Co..	Bound Brook.
200	03	PA	Heleva Landfill	North Whitehall Twp.
Group 5 (HRS Scores 50.19–47.49)				
201	02	NJ	Ewan Property	Shamong Township.
202	02	NY	Batavia Landfill	Batavia.
203	05	IL	Woodstock Municipal Landfill.	Woodstock.
204	05	MN	Boise Cascade/ Onan/ Medtronics.	Fridley.
205	05	IL	MIG/Dewane Landfill.	Belvidere.
206	01	RI	Landfill & Resource Recovery.	North Smithfield.
207	05	MI	Hi-Mill Manufacturing Co.	Highland.
208	03	PA	Butler Mine Tunnel.	Pittston.
209	04	FL	Northwest 58th Street Landfill.	Hialeah.
210	02	NJ	Delilah Road	Egg Harbor Township.
211	03	PA	Mill Creek Dump	Erie.
212	02	NJ	Glen Ridge Radium Site.	Glen Ridge.
213	02	NJ	Montclair/West Orange Radium Site.	Montclair/W Orange.
214	01	CT	Precision Plating Corp.	Vernon.
215	04	FL	Sixty-Second Street Dump.	Tampa.
216	05	MI	G&H Landfill	Utica.
217	01	VT	Bennington Municipal Sanitary Lfl.	Bennington.
218	04	NC	Celanese (Shelby Fiber Operations).	Shelby.
219	02	NJ	Metaltec/ Aerosystems.	Franklin Borough.
220	05	WI	Schmalz Dump	Harrison.
221	04	TN	Carrier Air Conditioning Co.	Collierville.
222	05	MI	Motor Wheel, Inc..	Lansing.
223	05	WI	Better Brite Chrome & Zinc Shops.	DePere.
224	09	CA	Southern Calif Edison (Visalia).	Visalia.
225	02	NJ	Lang Property	Pemberton Township.
226	06	TX	Stewco, Inc.	Waskom.
227	02	NJ	Sharkey Landfill	Parsippany/ Troy Hls.
228	09	CA	Selma Treating Co.	Selma.
229	06	LA	Cleve Reber	Sorrento.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/ county
230	05	IL	Velsicol Chemical Corp. (Illinois).	Marshall.
231	07	MO	Wheeling Disposal Service Co. Lf.	Amazonia.
232	05	MI	Tar Lake	Mancelona Township.
233	02	NY	Johnstown City Landfill.	Town of Johnstown.
234	04	NC	NC State U (Lot 86, Farm Unit #1).	Raleigh.
235	08	CO	Lowry Landfill	Arapahoe County.
236	05	MN	MacGillis & Gibbs/Bell Lumber.	New Brighton.
237	03	PA	Hunterstown Road.	Straban Township.
238	03	MD	Woodlawn County Landfill.	Woodlawn.
239	05	WI	Hechimovich Sanitary Landfill.	Williamstown.
240	07	IA	Mid-America Tanning Co.	Sergeant Bluff.
241	07	NE	Lindsay Manufacturing Co.	Lindsay.
242	02	NJ	Combe Fill North Landfill.	Mount Olive Twp.
243	01	MA	Re-Solve, Inc	Dartmouth.
244	02	NJ	Goose Farm	Plumstead Township.
245	04	TN	Velsicol Chem (Hardeman County).	Toone.
246	02	NY	York Oil Co	Moira.
247	04	FL	Sapp Battery Salvage.	Cottondale.
248	04	SC	Wamchem, Inc	Burton.
249	02	NJ	Chemical Leaman Tank Lines, Inc.	Bridgeport.
250	05	WI	Master Disposal Service Landfill.	Brookfield.
Group 6 (HRS Scores 47.46–45.91)				
251	07	KS	Doepke Disposal (Holliday).	Johnson County.
252	02	NJ	Florence Land Recontouring Landfill.	Florence Township.
253	01	RI	Davis Liquid Waste.	Smithfield.
254	01	MA	Charles-George Reclamation Landfill.	Tyngsborough.
255	02	NJ	King of Prussia	Winslow Township.
256	03	VA	Chisman Creek	York County.
257	05	OH	Nease Chemical	Salem.
258	08	CO	Eagle Mine	Minturn/ Redcliff.
259	02	NJ	Chemical Control	Elizabeth.
260	04	NC	Charles Macon Lagoon & Drum Stor.	Cordova.
261	04	SC	Leonard Chemical Co., Inc.	Rock Hill.
262	05	OH	Allied Chemical & Ironton Coke.	Ironton.
263	05	MI	Verona Well Field.	Battle Creek.
264	07	MO	Lee Chemical	Liberty.
265	01	CT	Beacon Heights Landfill.	Beacon Falls.
266	04	AL	Stauffer Chem (Cold Creek Plant).	Bucks.
267	05	MN	Burlington Northern (Brainerd).	Brainerd/ Baxter.
268	05	MI	Torch Lake	Houghton County.
269	01	RI	Central Landfill	Johnston.
270	03	PA	Malvern TCE	Malvern.
271	02	NY	Facet Enterprises, Inc.	Elmira.
272	03	DE	Delaware Sand & Gravel Landfill.	New Castle County.
273	03	PA	Tonolli Corp	Nesquehoning.
274	04	NC	National Starch & Chemical Corp.	Salisbury.
275	03	PA	MW Manufacturing.	Valley Township.
276	03	VA	C & R Battery Co., Inc.	Chesterfield County.
277	04	TN	Murray-Ohio Dump.	Lawrenceburg.
278	05	IN	Environchem Corp..	Zionsville.
279	05	IN	MIDCO I	Gary.
280	05	OH	Ormet Corp.	Hannibal.
281	05	OH	South Point Plant	South Point.
282	01	CT	Gallup's Quarry	Plainfield.
283	03	PA	Whitmoyer Laboratories.	Jackson Township.
284	07	IA	Peoples Natural Gas Co..	Dubuque.
285	07	MO	Oronogo-Duenweg Mining Belt.	Jasper County.
286	04	FL	Coleman-Evans Wood Preserving Co.	Whitehouse.
287	02	NJ	Dayco Corp./L.E. Carpenter Co.	Wharton Borough.
288	03	PA	Shriver's Corner	Straban Township.
289	03	PA	Dorney Road Landfill.	Upper Macungie Twp.
290	03	PA	Berks Landfill	Spring Township.
291	05	IN	Northside Sanitary Landfill, Inc.	Zionsville.
292	05	IL	Interstate Pollution Control, Inc.	Rockford.
293	06	AR	Monroe Auto Equip (Paragould Pit).	Paragould.
294	06	OK	Oklahoma Refining Co.	Cyril.
295	07	IA	E.I. Du Pont (County Rd X23).	West Point.
296	09	CA	Pacific Coast Pipe Lines.	Fillmore.
297	02	NJ	Global Sanitary Landfill.	Old Bridge Township.
298	04	FL	Florida Steel Corp.	Indiantown.
299	03	PA	Occidental Chem/ Firestone Tire.	Lower Pottsgrove Twp.
300	03	VA	Culpeper Wood Preservers, Inc..	Culpeper.
Group 7 (HRS Scores 45.91–43.75)				
301	05	IL	Pagel's Pit	Rockford.
302	05	MN	University Minn Rosemount Res Cen.	Rosemount.
303	05	MN	Freeway Sanitary Landfill.	Burnsville.
304	05	WI	Tomah Municipal Sanitary Landfill.	Tomah.
305	09	AZ	Litchfield Airport Area.	Goodyear/ Avondale.
306	09	CA	Firestone Tire (Salinas Plant).	Salinas.
307	02	NJ	Spence Farm	Plumstead Township.
308	06	AR	Mid-South Wood Products.	Mena.
309	04	MS	Newsom Brothers/Old Reichhold.	Columbia.
310	09	CA	Atlas Asbestos Mine.	Fresno County.
311	09	CA	Coalinga Asbestos Mine.	Coalinga.
312	04	FL	Brown Wood Preserving.	Live Oak.
313	02	NY	Port Washington Landfill.	Port Washington.
314	05	IN	Columbus Old Municipal Lndfll #1.	Columbus.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/ county
315	02	NJ	Combe Fill South Landfill.	Chester Township.
316	02	NJ	JIS Landfill	Jamesburg/ S. Brnswck.
317	02	NY	Tronic Plating Co., Inc.	Farmingdale.
318	03	PA	Centre County Kepone.	State College Boro.
319	04	FL	Agrico Chemical Co.	Pensacola.
320	05	OH	Fields Brook	Ashtabula.
321	01	CT	Solvents Recovery Service New Eng.	Southington.
322	08	CO	Woodbury Chemical Co.	Commerce City.
323	02	NJ	Waldick Aerospace Devices, Inc.	Wall Township.
324	01	MA	Hocomonco Pond.	Westborough.
325	04	KY	Distler Brickyard	West Point.
326	02	NY	Ramapo Landfill	Ramapo.
327	09	CA	Coast Wood Preserving.	Ukiah.
328	09	CA	South Bay Asbestos Area.	Alviso.
329	02	NY	Mercury Refining, Inc.	Colonie.
330	04	FL	Hollingsworth Solderless Terminal.	Fort Lauderdale.
331	02	NY	Olean Well Field	Olean.
332	04	AL	T.H. Agricul & Nutri (Montgomery).	Montgomery.
333	09	CA	Fairchild Semiconduct (S San Jose).	South San Jose.
334	10	WA	Pasco Sanitary Landfill.	Pasco.
335	09	CA	Sulphur Bank Mercury Mine.	Clear Lake.
336	05	MN	Joslyn Manufacturing & Supply Co.	Brooklyn Center.
337	03	PA	York County Solid Waste/ Refuse Lf.	Hopewell Township.
338	05	WI	Spickler Landfill	Spencer.
339	06	MN	Prewitt Abandoned Refinery.	Prewitt.
340	08	CO	Denver Radium Site.	Denver.
341	02	NY	Tri-Cities Barrel Co., Inc.	Port Crane.
342	03	PA	Route 940 Drum Dump.	Pocono Summit.
343	04	FL	Tower Chemical Co.	Clermont.
344	05	MI	Peerless Plating Co.	Muskegon.
345	01	VT	Darling Hill Dump.	Lyndon.
346	03	PA	C & D Recycling	Foster Township.
347	04	KY	Fort Hartford Coal Co Stone Qurry.	Olaton.
348	07	MO	Syntex Facility	Verona.
349	08	MT	Milltown Reservoir Sediments.	Milltown.
350	05	MN	Arrowhead Refinery Co.	Hermantown.

Group 8 (HRS Scores 43.70–42.33)

NPL rank	EPA reg.	St	Site name	City/ county
351	10	OR	Martin-Marietta Aluminum Co.	The Dalles.
352	08	CO	Uravan Uranium (Union Carbide).	Uravan.
353	02	NJ	Pijak Farm	Plumstead Township.
354	02	NJ	Syncon Resins	South Kearny.
355	05	MN	Oak Grove Sanitary Landfill.	Oak Grove Township.
356	07	IA	White Farm Equipment Co. Dump.	Charles City.
357	09	CA	Liquid Gold Oil Corp.	Richmond.
358	09	CA	Purity Oil Sales, Inc.	Malaga.
359	01	NH	Tinkham Garage	Londonderry.
360	04	FL	Alpha Chemical Corp.	Galloway.
361	02	NJ	Bog Creek Farm	Howell Township.
362	01	ME	Saco Tannery Waste Pits.	Saco.
363	03	PA	River Road Lf/ Waste Mngmnt, Inc.	Hermitage.
364	02	PR	Frontera Creek	Rio Abajo.
365	04	FL	Pickettville Road Landfill.	Jacksonville.
366	05	OH	Alsco Anaconda	Gnadenhutten.
367	01	MA	Iron Horse Park	Billerica.
368	03	PA	Palmerton Zinc Pile.	Palmerton.
369	05	IN	Neal's Landfill (Bloomington).	Bloomington.
370	05	WI	Kohler Co. Landfill.	Kohler.
371	04	AL	Interstate Lead Co. (ILCO).	Leeds.
372	04	FL	Standard Auto Bumper Corp.	Hialeah.
373	07	KS	Hydro-Flex Inc	Topeka.
374	09	AZ	Hassayampa Landfill.	Hassayampa.
375	06	LA	Gulf Coast Vacuum Services.	Abbeville.
376	05	IL	Tri-County Lf/ Waste Mgmt Illinois.	South Elgin.
377	01	MA	Silresim Chemical Corp.	Lowell.
378	01	MA	Wells G&H	Woburn.
379	01	CT	Nutmeg Valley Road.	Wolcott.
380	02	NJ	Chemsol, Inc	Piscataway.
381	05	WI	Lauer I Sanitary Landfill.	Menomonee Falls.
382	05	MI	Petoskey Municipal Well Field.	Petoskey.
383	05	MN	Union Scrap Iron & Metal Co.	Minneapolis.
384	01	MA	Atlas Tack Corp	Fairhaven.
385	02	NJ	Radiation Technology, Inc.	Rockaway Township.
386	02	NJ	Fair Lawn Well Field.	Fair Lawn.
387	05	IN	Main Street Well Field.	Elkhart.
388	05	MN	Lehillier/Mankato Site.	Lehillier/ Mankato.
389	01	WA	Lakewood Site	Lakewood.
390	03	PA	Industrial Lane	Williams Township.
391	04	FL	Airco Plating Co	Miami
392	05	IN	Fort Wayne Reduction Dump.	Fort Wayne.
393	05	WI	Onalaska Municipal Landfill.	Onalaska.
394	03	PA	A.I.W. Frank/ Mid-County Mustang.	Exton.
395	05	WI	National Presto Industries, Inc.	Eau Claire.
396	02	NJ	Monroe Township Landfill.	Monroe Township.
397	03	PA	Commodore Semiconductor Group.	Lower Providence Twp.
398	02	NJ	Rockaway Borough Well Field.	Rockaway Township.
399	05	IL	Lenz Oil Service, Inc.	Lemont.
400	05	IN	Wayne Waste Oil	Columbia City.

Group 9 (HRS Scores 42.33–41.60)

NPL rank	EPA reg.	St	Site name	City/ county
401	10	WA	Pacific Car & Foundry Co.	Renton.
402	07	IA	John Deere (Ottumwa Works Lndfls).	Ottumwa.
403	03	MD	Mid-Atlantic Wood Preservers, Inc.	Harmans.
404	03	PA	Novak Sanitary Landfill.	South Whitehall Twp.
405	05	IN	Himco Dump	Elkhart.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/ county
406	10	ID	Pacific Hide & Fur Recycling Co.	Pocatello.
407	07	IA	Des Moines TCE	Des Moines
408	02	NJ	Beachwood/ Berkley Wells.	Berkley Township.
409	02	NJ	South Jersey Clothing Co.	Minotala.
410	02	NY	Vestal Water Supply Well 4-2.	Vestal.
411	02	PR	Vega Alta Public Supply Wells.	Vega Alta.
412	03	PA	Avco Lycoming (Williamsport Div).	Williamsport.
413	03	PA	Ohio River Park	Neville Island.
414	04	GA	Wolfolk Chemical Works, Inc.	Fort Valley.
415	05	IL	Southeast Rockford Grnd Wtr Con.	Rockford.
416	05	IN	Tippecanoe Sanitary Landfill, Inc.	Lafayette.
417	05	IN	Conrail Rail Yard (Elkhart).	Elkhart.
418	05	IN	Galen Myers Dump/Drum Salvage.	Osceola.
419	05	MI	Sturgis Municipal Wells.	Sturgis.
420	05	MI	Barrels, Inc	Lansing.
421	05	MI	State Disposal Landfill, Inc.	Grand Rapids.
422	05	MN	Washington County Landfill.	Lake Elmo
423	05	MN	Dakhue Sanitary Landfill.	Cannon Falls.
424	06	TX	Odessa Chromium #1.	Odessa.
425	06	TX	Odessa Chromium #2 (Andrews Hgwy).	Odessa.
426	07	IA	Electro-Coatings, Inc.	Cedar Rapids.
427	07	NE	Hastings Ground Water Contamin.	Hastings.
428	08	SD	Williams Pipe Line Disposal Pit.	Sioux Falls.
429	09	AZ	Indian Bend Wash Area.	Scottsdale/ Tempe/ Phnx.
430	09	CA	San Gabriel Valley (Area 1).	El Monte.
431	09	CA	San Gabriel Valley (Area 2).	Baldwin Park Area.
432	09	CA	San Fernando Valley (Area 1).	Los Angeles.
433	09	CA	San Fernando Valley (Area 2).	Los Angeles/ Glendale.
434	09	CA	San Fernando Valley (Area 3).	Glendale.
435	09	CA	T.H. Agriculture & Nutrition Co.	Fresno.
436	10	AK	Arctic Surplus	Fairbanks.
437	10	WA	Com Bay, Near Shore/Tide Flats.	Pierce County.
438	05	IL	LaSalle Electric Utilities.	LaSalle.
439	05	IL	Cross Brothers Pail (Pembroke).	Pembroke Township.
440	04	GA	Cedartown Industries, Inc.	Cedartown.
441	04	NC	Jadco-Hughes Facility.	Belmont.
442	05	IN	Southside Sanitary Landfill.	Indianapolis.
443	02	NJ	Monitor Devices/ Intercircuits Inc.	Wall township.
444	01	VT	BFI Sanitary Landfill (Rockingham).	Rockingham.
445	02	PR	Upjohn Facility	Barceloneta.
446	04	NC	Koppers Co Inc (Morrisville Plnt).	Morrisville.
447	08	UT	Sharon Steel (Midvale Tailings).	Midvale.
448	09	CA	McColl	Fullerton.
449	03	PA	Henderson Road	Upper Merion Twp.
450	02	NY	Hooker Chemical/ Ruco Polymer Corp.	Hicksville.
Group 10 (HRS Scores 41.59–39.89)				
451	10	WA	Colbert Landfill	Colbert.
452	06	LA	Petro-Processors of Louisiana Inc.	Scotlandville.
453	03	PA	Westinghouse Elec (Sharon Plant).	Sharon.
454	02	NY	Applied Environmental Services.	Glenwood Landing.
455	02	PR	Barceloneta Landfill.	Florida Afuera.
456	01	NH	Tibbets Road	Barrington.
457	03	MD	Sand, Gravel & Stone.	Elkton.
458	03	PA	Delta Quarries/ Stotler Landfill.	Antis/ Logan Twps.
459	01	CT	Revere Textile Prints Corp.	Sterling.
460	05	MI	Spartan Chemical Co.	Wyoming.
461	02	NJ	Roebling Steel Co.	Florence.
462	03	PA	East Mount Zion	Springettsbury Twp.
463	04	GA	T.H. Agricul & Nutri (Albany).	Albany.
464	04	TN	Amnicola Dump	Chattanooga.
465	02	NJ	Vineland State School.	Vineland.
466	09	AZ	Motorola, Inc. (52nd Street Plant).	Phoenix.
467	01	MA	Groveland Wells	Groveland.
468	02	NY	General Motors (Cent Foundry Div).	Massena.
469	01	NH	Mottolo Pig Farm	Raymond.
470	03	VA	Buckingham County Landfill.	Buckingham.
471	04	SC	SCRDI Dixiana	Cayce.
472	05	MI	Roto-Finish Co., Inc.	Kalamazoo.
473	05	MN	Olmsted County Sanitary Landfill.	Oronoco.
474	07	MO	Quality Plating	Sikeston.
475	05	IN	Prestolite Battery Division.	Vincennes.
476	07	MO	Fulbright Landfill	Springfield.
477	02	NJ	Williams Property	Swainton.
478	02	NJ	Renora, Inc	Edison Township.
479	04	NC	FCX, Inc. (Washington Plant).	Washington.
480	03	PA	Jacks Creek/ Sitkin Smelting & Ref.	Maitland.
481	06	NM	Cleveland Mill	Silver City.
482	02	NJ	Denzer & Schafer X-Ray Co.	Bayville.
483	02	NJ	Hercules, Inc. (Gibbs- town Plant).	Gibbstown.
484	05	IN	Ninth Avenue Dump.	Gary.
485	03	MD	Bush Valley Landfill.	Abingdon.
486	04	SC	Golden Strip Septic Tank Service.	Simpsonville.
487	04	SC	Rock Hill Chemical Co.	Rock Hill.
488	06	TX	Texarkana Wood Preserving Co.	Texarkana.
489	06	AR	Gurley Pit	Edmondson.
490	04	FL	Petroleum Products Corp.	Pembroke Park.
491	01	RI	Peterson/ Puritan, Inc.	Lincoln/ Cumberland.
492	07	MO	Times Beach Site.	Times Beach.
493	05	MI	Wash King Laundry.	Pleasant Plains Twp.
494	05	MN	Whittaker Corp	Minneapolis.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/ county
495	05	WI	Algoma Municipal Landfill.	Algoma.
496	05	MN	NL Industries/ Taracorp/ Golden.	St. Louis Park.
497	09	CA	Westinghouse Elec (Sunnyvale Plt).	Sunnyvale.
498	01	CT	Kellogg-Deering Well Field.	Norwalk.
499	03	PA	Boarhead Farms	Bridgeton Township.
500	01	MA	Cannon Engineering Corp. (CEC).	Bridgewater.
Group 11 (HRS Scores 39.88–38.20)				
501	05	MI	H. Brown Co., Inc.	Grand Rapids.
502	02	NY	Nepera Chemical Co., Inc.	Maybrook.
503	02	NY	Niagara County Refuse.	Wheatfield.
504	04	FL	Sherwood Medical Industries.	Deland.
505	09	CA	Western Pacific Railroad Co.	Oroville.
506	04	AL	Olin Corp. (McIntosh Plant).	McIntosh.
507	05	MI	Southwest Ottawa County landfill.	Park township.
508	02	NY	Kentucky Avenue Well Field.	Horseheads.
509	02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead.
510	06	TX	Sol Lynn/ Industrial Transformers.	Houston.
511	02	NJ	Asbestos Dump	Millington.
512	04	KY	Lee's Lane Landfill.	Louisville.
513	05	IL	Kerr-McGee (Reed-Keepler Park).	West Chicago.
514	06	AR	Frit Industries	Walnut Ridge.
515	05	IL	Amoco Chemicals (Joliet Landfill).	Joliet.
516	04	FL	Woodbury Chemical (Princeton Plnt).	Princeton.
517	05	OH	Fultz Landfill	Jackson Township.
518	04	NC	New Hanover Cnty Airport Burn Pit.	Wilmington.
519	10	OR	Allied Plating, Inc.	Portland.
520	05	OH	Coshocton Landfill.	Franklin Township.
521	09	AZ	Apache Powder Co.	St. David.
522	09	NV	Carson River Mercury Site.	Lyon/ Churchill Cnty.
523	03	PA	AMP, Inc. (Glen Rock Facility).	Glen Rock.
524	04	NC	JFD Electronics/ Channel Master.	Oxford.
525	04	TN	Arlington Blending & Packaging.	Arlington.
526	06	LA	PAB Oil & Chemical Service, Inc.	Abbeville.
527	04	FL	Sydney Mine Sludge Ponds.	Brandon.
528	06	NM	Cimarron Mining Corp.	Carrizozo.
529	01	RI	Davis (GSR) Landfill.	Gloucester.
530	03	PA	Lord-Shope Landfill.	Girard township.
531	10	WA	FMC Corp. (Yakima Pit).	Yakima.
532	05	WI	Northern Engraving Co.	Sparta.
533	06	TX	South Cavalcade Street.	Houston.
534	01	MA	PSC Resources	Palmer.
535	05	MI	Forest Waste Products.	Otisville.
536	03	PA	Drake Chemical	Lock Haven.
537	09	CA	United Heckathorn Co.	Richmond.
538	01	NH	Kearsarge Metallurgical Corp.	Conway.
539	04	SC	Palmetto Wood Preserving.	Dixiana.
540	05	IL	Petersen Sand & Gravel.	Libertyville.
541	05	MI	Clare Water Supply.	Clare.
542	06	TX	Tex-Tin Corp.	Texas City.
543	03	PA	Havertown PCP	Haverford.
544	03	DE	New Castle Spill	New Castle County.
545	07	MO	St Louis Airport/ HIS/Fut Coatings.	St. Louis County.
546	08	MT	Idaho Pole Co.	Bozeman.
547	03	DE	NCR Corp. (Millsboro Plant).	Millsboro.
548	05	IN	Lake Sandy Jo (M&M Landfill).	Gary.
549	05	IL	Johns-Manville Corp..	Waukegan.
550	05	MI	Chem Central	Wyoming Township.
Group 12 (HRS Scores 38.20–37.62)				
551	05	MI	Novaco Industries.	Temperance.
552	04	FL	Beulah Landfill	Pensacola.
553	05	MN	Windom Dump	Windom.
554	05	IL	Kerr-McGee (Residential Areas).	W Chic/ DuPage Cnty.
555	01	RI	Rose Hill Regional Landfill.	South Kingstown.
556	02	NJ	Jackson Township Landfill.	Jackson Township.
557	05	IL	NL Industries/ Taracorp Lead Smelt.	Granite City.
558	04	KY	Red Penn Sanitation Co. Landfill.	Peewee Valley.
559	05	MI	K&L Avenue Landfill.	Oshtemo township.
560	05	OH	TRW Inc. (Minerva Plant).	Minerva.
561	10	WA	Kaiser Aluminum Mead Works.	Mead.
562	06	OK	Mosley Road Sanitary Landfill.	Oklahoma City.
563	01	CT	Barkhamsted-New Hartford Landfill.	Barkhamsted.
564	07	IA	Fairfield Coal Gasification Plant.	Fairfield.
565	05	MN	Perham Arsenic Site.	Perham.
566	05	MI	Charlevoix Municipal Well.	Charlevoix.
567	02	NJ	Montgomery Township Housing Devl.	Montgomery Township.
568	02	NJ	Rocky Hill Municipal Well.	Rocky Hill Borough.
569	02	NJ	Cinnaminson Ground Water Contamin.	Cinnaminson Township.
570	02	NJ	Chemical Insecticide Corp.	Edison Township.
571	02	NY	Brewster Well Field.	Putnam County.
572	02	NY	Vestal Water Supply Well 1-1.	Vestal.
573	03	DE	Chem-Solv, Inc	Chesswold.
574	03	PA	Bally Ground Water Contamination.	Bally Borough.
575	04	FL	Madison County Sanitary Landfill.	Madison.
576	04	FL	Chemform, Inc	Pompano Beach.
577	04	FL	Wilson Concepts of Florida, Inc.	Pompano Beach.
578	04	NC	Bypass 601 Ground Water Contamin.	Concord.
579	04	NC	FCX, Inc. (Statesville Plant).	Statesville.
580	04	SC	Lexington County Landfill Area.	Cayce

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/county
581	05	MI	Michigan Disposal (Cork Street Lf).	Kalamazoo.
582	07	MO	Solid State Circuits, Inc.	Republic.
583	07	NE	Waverly Ground Water Contamin.	Waverly.
584	08	CO	Chemical Sales CO.	Denver.
585	08	UT	Utah Power & Light/American Barrel.	Salt Lake City.
586	09	CA	Advanced Micro Devices, Inc.	Sunnyvale.
587	09	CA	Hexcel Corp	Livermore.
588	09	CA	Crazy Horse Sanitary Landfill.	Salinas.
589	10	OR	Union Pacific Railroad Tie Treat.	The Dalles.
590	10	WA	Hidden Valley Lndfl (Thun Field).	Pierce County.
591	10	WA	Yakima Plating Co.	Yakima.
592	05	MN	Nutting Truck & Caster Co.	Faribault.
593	02	NJ	U.S. Radium Corp.	Orange.
594	05	MI	Carter Industrials, Inc.	Detroit.
595	06	TX	Highlands Acid Pit.	Highlands.
596	03	PA	Resin Disposal	Jefferson Borough.
597	08	MT	Libby Ground Water Contamination.	Libby.
598	04	KY	Newport Dump	Newport.
599	04	SC	Sangamo/Twelve-Mile/Hartwell PCB.	Pickens.
600	03	PA	Moyers Landfill	Eagleville.
Group 13 (HRS Scores 37.52–35.79)				
601	01	NH	Savage Municipal Water Supply.	Milford.
602	05	MN	LaGrand Sanitary Landfill.	LaGrand Township.
603	05	IN	Poer Farm	Hancock County.
604	03	PA	Brown's Battery Breaking.	Shoemakersville.
605	02	NY	SMS Instruments, Inc..	Deer Park.
606	05	MI	Hedblum Industries.	Oscoda.
607	06	TX	United Creosoting Co..	Conroe.
608	02	NY	Byron Barrel & Drum.	Byron.
609	05	MI	Bendix Corp./Allied Automotive.	St. Joseph.
610	08	WY	Baxter/Union Pacific Tie Treating.	Laramie.
611	02	NY	Anchor Chemicals.	Hicksville.
612	05	MI	Waste Management—Mich (Holland).	Holland.
613	03	VA	Arrowhead Assoc/Scovill Corp.	Montross.
614	03	VA	Atlantic Wood Industries, Inc.	Portsmouth.
615	06	TX	North Cavalcade Street.	Houston.
616	02	NJ	Sayreville Landfill	Sayreville.
617	01	NH	Dover Municipal Landfill.	Dover.
618	02	NY	Ludlow Sand & Gravel.	Clayville.
619	03	VA	Saunders Supply Co..	Chuckatuck.
620	05	WI	City Disposal Corp. Landfill.	Dunn.
621	02	NJ	Tabernacle Drum Dump.	Tabernacle Township.
622	07	MO	Minker/Stout/Romaine Creek.	Imperial.
623	04	KY	Howe Valley Landfill.	Howe Valley.
624	01	CT	Yaworski Waste Lagoon.	Canterbury.
625	03	WV	Leetown Pesticide.	Leetown.
626	04	SC	Rochester Property.	Travelers Rest.
627	04	FL	Cabot/Koppers	Gainesville.
628	02	NJ	Evor Phillips Leasing.	Old Bridge Township.
629	03	PA	William Dick Lagoons.	West Caln Township.
630	05	IN	Douglass Road/Uniroyal, Inc., Lf.	Mishawaka.
631	03	PA	Lackawanna Refuse.	Old Forge Borough.
632	06	OK	Compass Industries (Avery Drive).	Tulsa.
633	02	NJ	Mannheim Avenue Dump.	Galloway Township.
634	05	IN	Neal's Dump (Spencer).	Spencer.
635	03	VA	Abex Corp.	Portsmouth.
636	02	NY	Fulton Terminals	Fulton.
637	05	MI	Allied Paper/Portage Ck/Kalamaz, R.	Kalamazoo.
638	06	LA	Dutchtown Treatment Plant.	Ascension Parish.
639	03	PA	Westinghouse Elevator Co. Plant.	Gettysburg.
640	10	WA	Centralia Municipal Landfill.	Centralia.
641	01	NH	Auburn Road Landfill.	Londonderry.
642	03	WV	Fike Chemical, Inc..	Nitro.
643	05	MN	General Mills/Henkel Corp..	Minneapolis.
644	04	TN	Wrigley Charcoal Plant.	Wrigley.
645	05	OH	Laskin/Poplar Oil Co..	Jefferson Township.
646	05	OH	Old Mill	Rock Creek.
647	04	SC	Townsend Saw Chain Co..	Pontiac.
648	07	KS	Johns' Sludge Pond.	Wichita.
649	05	WI	Stoughton City Landfill.	Stoughton.
650	09	CA	Del Norte Pesticide Storage.	Crescent City.
Group 14 (HRS Scores 35.76–35.35)				
651	03	VA	Suffolk City Landfill.	Suffolk.
652	01	VT	Tansitor Electronics, Inc.	Bennington.
653	02	NJ	De Rewa Chemical Co..	Kingwood Township.
654	03	PA	Middletown Air Field.	Middletown.
655	02	NJ	Swope Oil & Chemical Co.	Pennsauken.
656	04	GA	Monsanto Corp. (Augusta Plant).	Augusta.
657	01	NH	South Municipal Water Supply Well.	Peterborough.
658	01	ME	Winthrop Landfill	Winthrop.
659	03	WV	Ordnance Works Disposal Areas.	Morgantown.
660	04	GA	Diamond Shamrock Corp. Landfill.	Cedartown.
661	05	OH	Zanesville Well Field.	Zanesville.
662	01	CT	Cheshire Ground Water Contamin.	Cheshire.
663	02	NY	Suffern Village Well Field.	Village of Suffern.
664	02	NY	Endicott Village Well Field.	Village of Endicott.
665	03	DE	Dover Gas Light Co.	Dover.
666	03	PA	Aladdin Plating	Scott Township.
667	03	PA	North Penn—Area 1.	Souderton.
668	03	PA	North Penn—Area 7.	North Wales.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

[August 1990]

NPL rank	EPA reg.	St	Site name	City/ county
669	03	PA	North Penn—Area 6.	Lansdale.
670	03	PA	North Penn—Area 2.	Hatfield.
671	03	PA	North Penn—Area 5.	Montgomery Township.
672	04	FL	Harris Corp. (Palm Bay Plant).	Palm Bay.
673	05	IL	DuPage City Ldf/ Blackwell Forest.	Warrenville.
674	05	MN	Kummer Sanitary Landfill.	Bemidji.
675	05	OH	Sanitary Landfill Co. (IWD).	Dayton.
676	05	WI	Eau Claire Municipal Well Field.	Eau Claire.
677	06	NM	Pagano Salvage	Los Lunas.
678	07	MO	Valley Park TCE	Valley Park.
679	09	CA	San Fernando Valley (Area 4).	Los Angeles.
680	09	CA	Monolithic Memories.	Sunnyvale.
681	09	CA	National Semiconductor Corp..	Santa Clara.
682	09	CA	Fresno Municipal Sanitary Lndfll.	Fresno.
683	09	CA	Newmark Ground Water Contamin.	San Bernardino.
684	04	GA	Powersville Site	Peach County.
685	05	MI	Grand Traverse Overall Supply Co..	Greilickville.
686	05	MI	Metamora Landfill.	Metamora.
687	02	NY	Niagara Mohawk Power (Saratoga Sp).	Saratoga Springs.
688	05	MI	Whitehall Municipal Wells.	Whitehall.
689	03	DE	Standard Chlorine of Delaware, Inc.	Delaware City.
690	05	MN	South Andover Site.	Andover.
691	02	NJ	Diamond Alkali Co..	Newark.
692	05	IN	Carter Lee Lumber Co..	Indianapolis.
693	01	NH	Fletcher's Paint Works & Storage.	Milford.
694	03	VA	Avtex Fibers, Inc.	Front Royal.
695	05	MI	Kentwood Landfill.	Kentwood.
696	05	MI	Electrovoice	Buchanan.
697	09	CA	Jasco Chemical Corp..	Mountain View.
698	02	NY	Katonah Municipal Well.	Town of Bedford.
699	04	FL	B&B Chemical Co., Inc.	Hialeah.
700	07	KS	29th & Mead Ground Water Contamin.	Wichita.
701	09	CA	Teledyne Semiconductor.	Mountain View.
702	02	PR	Fibers Public Supply Wells.	Jobos.
703	04	FL	BMI-Textron	Lake Park.
704	03	VA	Dixie Caverns County Landfill.	Salem.
705	05	IN	Marion (Bragg) Dump.	Marion.
706	05	OH	Pristine, Inc.	Reading.
707	05	WI	Mid-State Disposal, Inc. Landfill.	Cleveland Township.
708	04	TN	American Creosote (Jackson Plant).	Jackson.
709	05	IL	Kerr-McGee (Sewage Treat Plant).	West Chicago.
710	08	CO	Broderick Wood Products.	Denver.
711	02	NY	C & J Disposal Leasing Co. Dump.	Hamilton.
712	05	OH	Buckeye Reclamation.	St. Clairsville.
713	02	NY	Preferred Plating Corp.	Farmingdale.
714	06	TX	Bio-Ecology Systems, Inc.	Grand Prairie.
715	08	UT	Monticello Rad Contaminated Props.	Monticello.
716	02	NJ	Woodland Route 532 Dump.	Woodland Township.
717	05	IN	American Chemical Service, Inc.	Griffith.
718	01	MA	Salem Acres	Salem.
719	02	NY	Richardson Hill Road Lndill/ Pond.	Sidney Center.
720	01	VT	Old Springfield Landfill.	Springfield.
721	03	PA	Bell Landfill	Terry Township.
722	02	NY	Solvent Savers	Lincklaen.
723	03	VA	U.S. Titanium	Piney River.
724	05	IL	Galesburg/ Koppers Co.	Galesburg.
725	09	CA	J.H. Baxter & Co	Weed.
726	02	NY	Hooker (Hyde Park).	Niagara Falls.
727	05	MI	SCA Independent Landfill.	Muskegon Heights.
728	02	NY	Action Anodizing, Plating Polish.	Copiague.
729	09	CA	MGM Brakes	Cloverdale.
730	06	LA	Bayou Sorrel Site.	Bayou Sorrel.
731	05	IL	H.O.D. Landfill	Antioch.
732	05	MI	Duell & Gardner Landfill.	Dalton Township.
733	10	WA	Mica Landfill	Mica.
734	02	NJ	Ellis Property	Evesham Township.
735	04	KY	Distler Farm	Jefferson County.
736	09	CA	Waste Disposal, Inc.	Santa Fe Springs.
737	10	WA	Harbor Island (Lead).	Seattle.
738	05	WI	Lemberger Transport & Recycling.	Franklin Township.
739	05	OH	E.H. Schilling Landfill.	Hamilton Township.
740	05	MI	Cliff/Dow Dump	Marquette.
741	02	NY	Clothier Disposal	Town of Granby.
742	03	PA	Ambler Asbestos Piles.	Ambler.
743	10	WA	Queen City Farms.	Maple Valley.
744	02	NJ	Curcio Scrap Metal, Inc.	Saddle Brook Twp.
745	03	VA	L.A. Clarke & Son.	Spotsylvania County.
746	05	WI	Scrap Processing Co., Inc.	Medford.
747	03	MD	Southern Maryland Wood Treating.	Hollywood.
748	04	KY	Caldwell Lace Leather Co., Inc.	Auburn.
749	05	IL	Ilada Energy Co.	East Cape Girardeau.
750	05	IL	Adams County Quincy Landfills 2&3.	Quincy.

Group 16 (HRS Scores 34.21–33.73)

751	05	MI	Kaydon Corp.	Muskegon.
752	05	WI	Sauk County Landfill.	Excelsior.
753	06	NM	Homestake Mining Co.	Milan.
754	06	TX	Dixie Oil Processors, Inc.	Friendswood.
755	09	CA	Beckman Instruments (Porterville).	Porterville.
756	05	MI	Muskegon Chemical Co.	Whitehall.
757	04	FL	Dubose Oil Products Co.	Cantonment.
758	05	MI	Mason County Landfill.	Pere Marquette Twp.
759	05	MI	Cemetery Dump	Rose Center.
760	07	IA	Red Oak City Landfill.	Red Oak.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/ county
761	05	IN	Lakeland Disposal Service, Inc.	Claypool.
762	02	NJ	Hopkins Farm	Plumstead Township.
763	04	NC	Cape Fear Wood Preserving.	Fayetteville.
764	01	RI	Stamina Mills, Inc.	North Smithfield.
765	05	WI	Lemberger Landfill, Inc.	Whitelaw.
766	05	IN	Reilly Tar (Indianapolis Plant).	Indianapolis.
767	01	ME	Pinette's Salvage Yard.	Washburn.
768	01	CT	Durham Meadows.	Durham.
769	03	DE	Tyler Refrigeration Pit.	Smyrna.
770	05	MI	Kysor Industrial Corp.	Cadillac.
771	09	CA	Lorentz Barrel & Drug Co.	San Jose.
772	02	NJ	Wilson Farm	Plumstead township.
773	02	NY	Conklin Dumps	Conklin.
774	03	PA	Old City of York Landfill.	Seven Valleys.
775	03	PA	Modern Sanitation Landfill.	Lower Windsor Twp.
776	05	IL	Byron Salvage Yard.	Byron.
777	05	MI	North Bronson Industrial Area.	Bronson.
778	03	PA	Stanley Kessler	King of Prussia.
779	04	SC	Helena Chemical Co. Landfill.	Fairfax.
780	07	MO	Kem-Pest Laboratories.	Cape Girardeau.
781	02	NJ	Imperial Oil/ Champion Chemicals.	Morganville.
782	02	NJ	Cosden Chemical Coatings Corp.	Beverly.
783	05	MN	St. Augusta San Lndfll/Engen Dump.	St. Augusta Township.
784	02	NJ	Myers Property	Franklin Township.
785	02	NJ	Pepe Field	Boonton.
786	04	KY	Tri-City Disposal Co.	Shepherdsville
787	10	WA	Northwest Transformer.	Everson.
788	02	NY	Genzale Plating Co.	Franklin Square.
789	05	MI	Albion-Sheridan Township Landfill.	Albion.
790	05	WI	Sheboygan Harbor & River.	Sheboygan.
791	06	LA	Combustion, Inc.	Denham Springs.
792	05	MI	Ossineke Ground Water Contamin.	Ossineke.
793	03	WV	Follansbee Site	Follansbee.
794	03	PA	Keystone Sanitation Landfill.	Union Township.
795	04	NC	Carolina Transformer Co.	Fayetteville.
796	02	NY	Carroll & Dubies Sewage Disposal.	Port Jervis.
797	02	NY	North Sea Municipal Landfill.	North Sea.
798	03	PA	Bendix Flight Systems Division.	Bridgewater Township.
799	07	IA	Farmers' Mutual Cooperative.	Hospers.
800	09	CA	Koppers Co. Inc. (Oroville Plant).	Oroville.

Group 17 (HRS Scores 33.73–32.87)

801	09	CA	Louisiana-Pacific Corp.	Oroville.
802	01	CT	Linemaster Switch Corp.	Woodstock.
803	03	VA	H & H Inc., Burn Pit.	Farrington.
804	05	MI	South Macomb Disposal (Lf 9 & 9A).	Macomb Township.
805	05	MI	U.S. Aviex	Howard Township.
806	07	IA	Sheller-Globe Corp. Disposal.	Keokuk.
807	03	PA	Walsh Landfill	Honeybrook Township.
808	02	NJ	Landfill & Development Co.	Mount Holly.
809	02	NJ	Upper Deerfield Township San Lndf.	Upper Deerfield Twp.
810	02	NY	Hertel Landfill	Plattekill.
811	02	NY	Haviland Complex.	Town of Hyde Park
812	02	NY	Malta Rocket Fuel Area.	Malta.
813	02	NY	Jones Chemicals, Inc.	Caledonia.
814	03	DE	Kent County Landfill (Houston).	Houston.
815	03	PA	Saegertown Industrial Area.	Saegertown.
816	04	GA	Cedartown Municipal Landfill.	Cedartown.
817	05	MI	Kent City Mobile Home Park.	Kent City.
818	05	MN	Adrian Municipal Well Field.	Adrian.
819	06	NM	AT & SF (Clovis)	Clovis.
820	07	KS	Strother Field Industrial Park.	Cowley County.
821	07	KS	Obee Road	Hutchinson.
822	09	CA	CTS Printex, Inc.	Mountain View.
823	02	NJ	Fried Industries	East Brunswick Twp.
824	02	NY	American Thermostat Co.	South Cairo.
825	08	ND	Minot Landfill	Minot.
826	03	DE	Koppers Co., Inc. (Newport Plant).	Newport.
827	04	TN	Lewisburg Dump	Lewisburg.
828	05	MI	McGraw Edison Corp.	Albion.
829	02	NJ	Lodi Municipal Well.	Lodi.
830	02	NY	Goldisc Recordings, Inc.	Holbrook.
831	02	NY	Islip Municipal Sanitary Landfill.	Islip.
832	09	CA	Sola Optical USA, Inc.	Petaluma.
833	04	KY	Airco	Calvert City.
834	03	PA	Metal Banks	Philadelphia.
835	05	IL	Yeoman Creek Landfill.	Waukegan.
836	02	NY	Sarney Farm	Amenia.
837	05	MI	Folkertsma Refuse.	Grand Rapids.
838	03	DE	Sealand Limited	Mount Pleasant.
839	01	MA	Rose Disposal Pit.	Lanesboro.
840	05	OH	Van Dale Junkyard.	Marietta.
841	08	MT	Montana Pole and Treating.	Butte.
842	04	NC	Geigy Chemical Corp(Aberdeen Plt).	Aberdeen.
843	04	KY	B.F. Goodrich	Calvert City.
844	04	KY	General Tire/ Rubber(Mayfield Lnf).	Mayfield.
845	04	SC	Para-Chem Southern, Inc.	Simpsonville.
846	05	MI	Organic Chemicals, Inc.	Grandville.
847	02	NY	BioClinical Laboratories, Inc.	Bohemia.
848	02	NY	Volney Municipal Landfill.	Town of Volney.
849	02	NY	FMC Corp. (Dublin Road Landfill).	Town of Shelby.
850	05	WI	Tomah Fairgrounds.	Tomah.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/ county
Group 18 (HRS Scores 32.77–31.94)				
851	01	MA	Sullivan's Ledge	New Bedford.
852	04	KY	Smith's Farm	Brooks.
853	05	WI	Madison Metro Sewer District Lag.	Blooming Grove.
854	10	WA	North Market Street.	Spokane.
855	10	OR	Joseph Forest Products.	Joseph.
856	02	PR	Juncos Landfill	Juncos.
857	07	KS	Big River Sand Co.	Wichita.
858	05	IN	Bennett Stone Quarry.	Bloomington.
859	10	WA	Wyckoff Co./ Eagle Harbor.	Bainbridge Island.
860	04	SC	Beaunit Corp(Circular Knit & Dye).	Fountain Inn.
861	02	NJ	Industrial Latex Corp.	Wallington Borough.
862	04	FL	Munisport Landfill.	North Miami.
863	06	LA	D.L. Mud, Inc.	Abbeville.
864	04	AL	Stauffer Chem (LeMoyne Plant).	Axis.
865	02	NJ	M&T Delisa Landfill.	Asbury Park.
866	06	TX	Crystal City Airport.	Crystal City.
867	04	SC	Geiger (C & M Oil).	Rantoules.
868	03	PA	Paoli Rail Yard	Paoli.
869	05	WI	Moss-American(Kerr-McGee Oil Co.).	Milwaukee.
870	05	WI	Waste Research & Reclamation Co.	Eau Claire.
871	10	OR	Gould, Inc.	Portland.
872	01	ME	Union Chemical Co., Inc.	South Hope.
873	02	NY	Cortese Landfill	Vil of Narrowsburg.
874	08	WY	Mystery Bridge Rd/U.S. Highway 20.	Evansville.
875	09	CA	Montrose Chemical Corp..	Torrance.
876	05	MN	St. Louis River Site.	St. Louis County.
877	05	MI	Auto Ion Chemicals, Inc.	Kalamazoo.
878	03	PA	Recticon/Allied Steel Corp.	East Coventry Twp
879	05	WI	Hagen Farm	Stoughton.
880	04	SC	Carolawn, Inc.	Fort Lawn.
881	07	IA	Midwest Manufacturing/ North Farm.	Kellogg.
882	03	PA	Berks Sand Pit	Longswamp Township.
883	09	CA	Valley Wood Preserving, Inc.	Turlock.
884	03	PA	Butz Landfill	Stroudsburg.
885	04	FL	City Industries, Inc.	Orlando.
886	05	MI	Sparta Landfill	Sparta Township.
887	05	IL	Acme Solvent (Morristown Plant).	Morristown.
888	01	NH	Holton Circle Ground Water Contam.	Londonderry.
889	02	NJ	Pomona Oaks Residential Wells.	Galloway Township.
890	02	NY	Rowe Industries Ground Water Cont.	Noyack/ Sag Harbor.
891	03	PA	Hebelka Auto Salvage Yard.	Weisenberg Township.
892	04	FL	Hipps Road Landfill.	Duval County.
893	05	MN	Long Prairie Ground Water Contam.	Long Prairie.
894	05	MN	Waite Park Wells	Waite Park.
895	07	NE	Nebraska Ordnance Plant (Former).	Mead.
896	09	CA	Applied Materials	Santa Clara.
897	09	CA	Intel Magnetics	Santa Clara.
898	09	CA	Intel Corp. (Santa Clara III).	Santa Clara.
899	09	CA	TRW Microwave, Inc (Building 825.	Sunnyvale.
900	09	CA	Synertek, Inc. (Building 1).	Santa Clara.
Group 19 (HRS Scores 31.94–30.93)				
901	09	CA	Advanced Micro Devices (Bldg. 915).	Sunnyvale.
902	04	FL	Pepper Steel & Alloys, Inc.	Medley.
903	02	NY	Mattiace Petrochemical Co., Inc.	Glen Cove.
904	01	ME	O'Connor Co	Augusta.
905	05	WI	Oconomowoc Electroplating Co., Inc.	Ashippin.
906	05	IN	Continental Steel Corp.	Kokomo.
907	05	MI	Rasmussen's Dump.	Green Oak Township.
908	02	NY	Kenmark Textile Corp.	Farmingdale.
909	04	FL	Wingate Road Munic Incinerat Dump.	Fort Lauderdale.
910	03	PA	Westline Site	Westline.
911	04	KY	Maxey Flats Nuclear Disposal.	Hillsboro.
912	04	NC	Benfield Industries, Inc.	Hazelwood.
913	08	MT	Mouat Industries	Columbus.
914	05	MI	J&L Landfill	Rochester Hills.
915	02	NY	Claremont Polychemical.	Old Bethpage.
916	05	OH	Powell Road Landfill.	Dayton.
917	03	PA	Croydon TCE	Croydon.
918	04	SC	Medley Farm Drum Dump.	Gaffney.
919	04	SC	Elmore Waste Disposal.	Greer.
920	07	IA	Vogel Paint & Wax Co.	Orange City.
921	05	MN	Kurt Manufacturing Co.	Fridley.
922	05	OH	Reilly Tar & Chemcal (Dover Plnt).	Dover
923	05	MI	Parsons Chemical Works, Inc.	Grand Ledge.
924	03	PA	Revere Chemical Co.	Nockamixon Township.
925	05	MI	Ionia City Landfill	Ionia.
926	06	TX	Koppers Co., Inc. (Texarkana Plant).	Texarkana.
927	08	CO	Lincoln Park	Canon City.
928	08	CO	Smuggler Mountain.	Pitkin County.
929	05	IN	Wedzeb Enterprises, Inc.	Lebanon.
930	02	PR	GE Wiring Devices.	Juana Diaz.
931	07	MO	Missouri Electric Works.	Cape Girardeau.
932	05	MI	Avenue "E" Ground Water Contamin.	Traverse City.
933	05	OH	New Lyme Landfill.	New Lyme.
934	02	NJ	Woodland Route 72 Dump.	Woodland Township.
935	02	PR	RCA Del Caribe	Barceloneta.
936	05	MN	Koch Refining Co./N-Ren Corp.	Pine Bend.
937	04	FL	Piper Aircraft/ Vero Beach Wtr&Swr.	Vero Beach.
938	03	PA	Brodhead Creek	Stroudsburg.
939	05	WI	Fadrowski Drum Disposal.	Franklin.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

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NPL rank	EPA reg.	St	Site name	City/county
940	10	OR	United Chrome Products, Inc.	Corvallis.
941	04	FL	Anodyne, Inc.	North Miami Beach.
942	04	FL	Anaconda Aluminum/Milgo Electron.	Miami.
943	03	PA	Eastern Diversified Metals.	Hometown.
944	04	MI	Anderson Development Co.	Adrian.
945	05	WI	Hunts Disposal Landfill.	Caledonia.
946	05	MI	Shiawassee River.	Howell.
947	06	OK	Tenth Street Dump/Junkyard.	Oklahoma City.
948	10	AK	Alaska Battery Enterprises.	Fairbanks N Star Bor.
949	03	PA	Taylor Borough Dump.	Taylor Borough.
950	04	TN	Murray-Ohio Mfg (Horseshoe Bend).	Lawrenceburg.
Group 20 (HRS Scores 30.90–29.88)				
951	03	DE	Halby Chemical Co.	New Castle.
952	02	NJ	Higgins Disposal	Kingston.
953	04	AL	Redwing Carriers, Inc. (Saraland).	Saraland.
954	06	OK	Double Eagle Refinery Co.	Oklahoma City.
955	04	GA	Mathis Bros Lf (S Marble Top Rd).	Kensington.
956	03	DE	Harvey & Knott Drum, Inc.	Kirkwood.
957	04	TN	Gallaway Pits	Gallaway.
958	05	OH	Big D Campground.	Kingsville.
959	06	AR	Midland Products	Ola/Birta.
960	02	NY	Robintech, Inc./National Pipe Co.	Town of Vestal.
961	02	NY	BEC Trucking	Town of Vestal.
962	03	PA	Strasburg Landfill	Newlin Township.
963	06	OK	Fourth Street Abandoned Refinery.	Oklahoma City.
964	02	NJ	Witco Chemical Corp. (Oakland Plt).	Oakland.
965	05	WI	Tomah Armory	Tomah.
966	03	DE	Wildcat Landfill	Dover.
967	05	MI	Burrows Sanitation.	Hartford.
968	03	PA	Blosenski Landfill	West Cain Township.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

[August 1990]

NPL rank	EPA reg.	St	Site name	City/county
969	03	VA	Rhinehart Tire Fire Dump.	Frederick County.
970	10	WA	Northwest Transformer (S Harkness).	Everson.
971	03	DE	Delaware City PVC Plant.	Delaware City.
972	03	MD	Limestone Road	Cumberland.
973	02	NY	Hooker (102nd Street).	Niagara Falls.
974	02	NJ	Higgins Farm	Franklin Township.
975	10	WA	American Crossarm & Conduit Co.	Chehalis.
976	06	NM	United Nuclear Corp.	Church Rock.
977	03	VA	Rentokil, Inc. (VA Wood Pres Div).	Richmond.
978	06	AR	Industrial Waste Control.	Fort Smith.
979	09	CA	Celtor Chemical Works.	Hoopa.
980	01	MA	Haverhill Municipal Landfill.	Haverhill.
981	04	AL	Perdido Ground Water Contamin.	Perdido.
982	02	NY	Marathon Battery Corp.	Cold Springs.
983	02	NY	Colesville Municipal Landfill.	Town of Colesville.
984	04	FL	Yellow Water Road Dump.	Baldwin.
985	04	GA	Marzone Inc./Chevron Chemical Co.	Tifton.
986	05	OH	Skinner Landfill	West Chester.
987	03	VA	First Piedmont Quarry (Route 719).	Pittsylvania County.
988	04	NC	Chemtronics, Inc.	Swannanoa.
989	05	IN	MIDCO II	Gary.
990	05	MI	Cannelton Industries, Inc.	Sault Sainte Marie.
991	06	TX	Sheridan Disposal Services.	Hempstead.
992	07	KS	Pester Refinery Co.	El Dorado.
993	03	MD	Kane & Lombard Street Drums.	Baltimore.
994	07	MO	Shenandoah Stables.	Moscow Mills.
995	04	GA	Firestone Tire (Albany Plant).	Albany.
996	07	IA	Shaw Avenue Dump.	Charles City.
997	03	PA	Berkley Products Co. Dump.	Denver.
998	10	WA	Silver Mountain Mine.	Loomis.
999	06	TX	Petro-Chemical (Turtle Bayou).	Liberty County.
1000	04	NC	Hevi-Duty Electric Co.	Goldsboro.

NATIONAL PRIORITIES LIST (BY RANK)—Continued

[August 1990]

NPL rank	EPA reg.	St	Site name	City/county
Group 21 (HRS Scores 29.85–28.90)				
1001	05	OH	Republic Steel Corp. Quarry.	Elyria.
1002	07	MO	Conservation Chemical Co.	Kansas City.
1003	07	MO	Westlake Landfill	Bridgeton.
1004	05	MN	Ritari Post & Pole.	Sebeka.
1005	06	LA	Bayou Bonfouca	Slidell.
1006	09	CA	Intel Corp. (Mountain View Plant).	Mountain View.
1007	09	CA	Raytheon Corp	Mountain View
1008	09	CA	Hewlett-Packard (620–40 Page Mill).	Palo Alto.
1009	05	MN	Agate Lake Scrapyard.	Fairview township.
1010	05	MI	Adam's Plating	Lansing.
1011	06	AR	Jacksonville Municipal Landfill.	Jacksonville.
1012	06	AR	Rogers Road Municipal Landfill.	Jacksonville.
1013	03	VA	Saltville Waste Disposal Ponds.	Saltville.
1014	01	ME	Saco Municipal Landfill.	Saco.
1015	04	SC	Palmetto Recycling, Inc.	Columbia.
1016	01	MA	Shpack Landfill	Norton/Attleboro.
1017	03	PA	Kimberton Site	Kimberton Borough.
1018	04	TN	Mallory Capacitor Co.	Waynesboro.
1019	01	MA	Norwood PCBs	Norwood.
1020	02	NY	Warwick Landfill	Warwick.
1021	02	NY	Sidney Landfill	Sidney.
1022	02	NY	Sealand Restoration, Inc.	Lisbon.
1023	10	WA	Old Inland Pit	Spokane.
1024	10	WA	Pesticide Lab (Yakima).	Yakima.
1025	05	IN	Lemon Lane Landfill.	Bloomington.
1026	05	IN	Tri-State Plating	Columbus.
1027	10	ID	Arrcom (Drexler Enterprises).	Rathdrum.
1028	01	NH	Coakley Landfill	North Hampton.
1029	04	NC	Potter's Septic Tank Service Pits.	Maco.
1030	04	KY	Green River Disposal, Inc.	Maceo.
1031	04	NC	ABC One Hour Cleaners.	Jacksonville.
1032	03	PA	Fischer & Porter Co.	Warminster.
1033	03	PA	Elizabethtown Landfill.	Elizabethtown

NATIONAL PRIORITIES LIST (BY RANK)—Continued

[August 1990]

NPL rank	EPA reg.	St	Site name	City/county
1034	05	IL	Central Illinois Public Serv Co.	Taylorville.
1035	06	AR	Arkwood, Inc	Omaha.
1036	09	CA	Jibboom Junkyard.	Sacramento.
1037	02	NJ	A. O. Polymer	Sparta Township.
1038	05	WI	Wausau Ground Water Contamination.	Wausau.
1039	02	NJ	Dover Municipal Well 4.	Dover Township.
1040	02	NJ	Rockaway Township Wells.	Rockaway.
1041	02	NJ	Pohatcong Valley Ground Water Con.	Warren County.
1042	02	NJ	Garden State Cleaners Co.	Minotola.
1043	03	DE	Sussex County Landfill No. 5.	Laurel.
1044	03	PA	North Penn—Area 12.	Worcester.
1045	03	PA	Dublin TCE Site	Dublin Borough.
1046	05	WI	Delavan Municipal Well #4.	Delavan.
1047	05	WI	Waste Management (Brookfield Lfl).	Brookfield.
1048	07	MO	North-U Drive Well Contamination.	Springfield.
1049	07	NE	10th Street Site	Columbus.
1050	09	CA	San Gabriel Valley (Area 3).	Alhambra.
1051	09	CA	San Gabriel Valley (Area 4).	La Puente.
1052	09	CA	Watkins-Johnson Co. (Stewart Div).	Scotts Valley.
1053	09	CA	Intersil Inc./ Siemens Components.	Cupertino.
1054	09	CA	Modesto Ground Water Contamin.	Modesto.
1055	10	WA	American Lake Gardens.	Tacoma.
1056	10	WA	Greenacres Landfill.	Spokane County.
1057	10	WA	Northside Landfill.	Spokane.
1058	06	OK	Sand Springs Petrochemical Cmplx.	Sand Springs.
1059	06	TX	Pesses Chemical Co.	Fort Worth.
1060	05	MI	Metal Working Shop.	Lake Ann.
1061	05	MN	East Bethel Demolition Landfill.	East Bethel Township.
1062	06	TX	Triangle Chemical Co.	Bridge City.
1063	02	NJ	PJP Landfill	Jersey City.
1064	03	PA	Craig Farm Drum	Parker.
1065	05	IL	Belvidere Municipal Landfill.	Belvidere.
1066	07	MO	Bee Cee Manufacturing Co.	Malden.
1067	03	PA	CryoChem, Inc	Worman.
1068	02	NJ	Kauffman & Minteer, Inc.	Jobstown.
1069	03	PA	Lansdowne Radiation Site.	Lansdowne.
1070	02	NY	Forest Glen Mobile Home Subdivis.	Niagara Falls.
1071	02	NY	Radium Chemical Co., Inc.	New York City.

Number of NPL Sites: 1071.

* State top priority site.

NATIONAL PRIORITIES LIST, FEDERAL SECTION (BY GROUP)

[August 1990]

NPL Gr [1]	St	Site name	City/county
1	WA	Hanford 200-Area (USDOE).	Benton County.
1	WA	Hanford 300-Area (USDOE).	Benton County.
1	CO	Rocky Flats Plants (USDOE).	Golden.
1	CA	Riverbank Army Ammunition Plant.	Riverbank.
1	NM	Cal West Metals (USSBA).	Lemitar.
1	MO	Weldon Spring (USDOE/Army).	St. Charles County.
2	CO	Rocky Mountain Arsenal.	Adams County.
2	TN	Milan Army Ammunition Plant.	Milan.
2	CA	McClelland AFB (Ground Water Cont).	Sacramento.
2	PA	Naval Air Develop Center (6 Areas).	Warminster Township.
2	OH	Wright-Patterson Air Force Base.	Dayton.
3	ID	Mountain Home Air Force Base.	Mountain Home.
3	OH	Feed Materials Prod Cent (USDOE).	Fernald.
3	WA	Bangor Naval Submarine Base.	Silverdale.
3	UT	Tooele Army Depot (North Area).	Tooele.
3	WA	Bonneville Power Adm Ross (USDOE).	Vancouver.
3	MD	Aber Prov Ground-Edgewood Area.	Edgewood.
4	ID	Idaho National Engin Lab (USDOE).	Idaho Falls.
4	AL	Anniston Army Depot (SE Ind Area).	Anniston.
4	GA	Robins AFB (Lndfll #4/Sludge Lag).	Houston County.
4	TN	Oak Ridge Reservation (USDOE).	Oak Ridge.
4	NE	Cornhusker Army Ammunition Plant.	Hall County.
4	NJ	Naval Air Engineering Center.	Lakehurst.
5	UT	Hill Air Force Base	Ogden.
5	CA	Treasure Island Nav Sta-Hun Pt An.	San Francisco.
5	AK	Elelson Air Force Base.	Fairbanks N Star Bor.
5	SC	Savannah River Site (USDOE).	Aiken.
5	WA	Naval Air Sta, Whid Is (Ault).	Whidbey Island.
6	NJ	W.R. Grace/Wayne Int Stor (USDOE).	Wayne Township.
6	WA	Hanford 100-Area (USDOE).	Benton County.
6	AK	Standard Steel & Met Sal Yd (USDOT).	Anchorage.
6	MA	Otis Air Nat Guard/ Camp Edwards.	Falmouth.
7	AK	Elmendorf Air Force Base.	Greater Anchorage Bor.
7	UT	Ogden Defense Depot.	Ogden.
7	GA	Marine Corps Logistics Base.	Albany.
7	CA	Sacramento Army Depot.	Sacramento.
8	IL	Sangamo/Crab Orchard NWR (USDOI).	Carterville.
8	ME	Brunswick Naval Air Station.	Brunswick.
8	CO	Air Force Plant PJKS.	Waterton.
8	NJ	Picatinny Arsenal	Rockway Township.
8	FL	Homestead Air Force Base.	Homestead.
8	AK	Fort Wainwright	Fairbanks N Star Bor.
8	FL	Pensacola Naval Air Station.	Pensacola.
9	CA	Sharpe Army Depot	Lathrop.
9	MA	Fort Devens	Fort Devens.
9	OK	Tinker AFB (Soldier Cr/Bldg 3001).	Oklahoma City.
9	CA	Lawrence Livermore Lab (USDOE).	Livermore.
9	CA	Fort Ord	Marina.
9	WA	McChord AFB (Wash Rack/ Treatment).	Tacoma.
9	IL	Savanna Army Depot Activity.	Savanna.
10	NY	Brookhaven National Lab (USDOE).	Upton.
10	TX	Air Force Plant #4 Gener Dynamics.	Fort Worth.
11	TX	Longhorn Army Ammunition Plant.	Karnack.
11	CA	Norton Air Force Base.	San Bernardino.
11	NJ	Federal Aviation Admin Tech Cent.	Atlantic County.
11	WA	Naval Air Sta, Whid Is (Seaplane).	Whidbey Island.

NATIONAL PRIORITIES LIST, FEDERAL SECTION (BY GROUP)—Continued

[August 1990]

NPL Gr [1]	St	Site name	City/county
11	NH	Pease Air Force Base.	Portsmouth/ Newing-ton.
11	NM	Lee Acres Landfill (USDOI).	Farmington.
11	WY	F.E. Warren Air Force Base.	Cheyenne.
12	CA	Castle Air Force Base.	Merced.
12	AZ	Luke Air Force Base	Glendale.
12	AZ	Williams Air Force Base.	Chandler.
12	PA	Tobyhanna Army Depot.	Tobyhanna.
12	CA	Barstow Marine Corps Logist Base.	Barstow.
13	PA	Letterkenny Army Depot (PDO Area).	Franklin County.
13	CA	El Toro Marine Corps Air Station.	El Toro.
13	NJ	Fort Dix (Landfill Site).	Pemberton Township.
13	CA	Tracy Defense Depot.	Tracy.
13	AL	Alabama Army Ammunition Plant.	Childersburg.
13	CT	New London Submarine Base.	New London.
13	WA	Hanford 1100-Area (USDOE).	Benton County.
13	DE	Dover Air Force Base.	Dover.
13	UT	Monticello Mill Tailings (USDOE).	Monticello.
14	MA	Fort Devens-Sudbury Training Ann.	Middlesex County.
14	NY	Seneca Army Depot	Romulus.
14	WA	Fort Lewis Logistics Center.	Tillicum.
15	IL	Joliet Army Ammu Plant (LAP Area).	Joliet.
15	OH	Mound Plant (USDOE).	Miamisburg.
15	RI	Davisville Naval Constr Batt Cent.	North Kingstown.
15	ME	Loring Air Force Base.	Limestone.
15	PR	Naval Security Group Activity.	Sabana Seca.
16	PA	Letterkenny Army Depot (SE Area).	Chambers-burg.
16	NY	Griffiss Air Force Base.	Rome.
16	VA	Defense General Supply Center.	Chesterfield County.
16	KS	Fort Riley	Junction City.
16	WA	Fort Lewis (Landfill No. 5).	Tacoma.
16	CA	Camp Pendleton Marine Corps Base.	San Diego County.
17	MO	Lake City Army Plant (NW Lagoon).	Independ-ence.
17	MN	Twin Cities Air Force (SAR Lndfll).	Minneapolis.
17	CA	Edwards Air Force Base.	Kern County.
17	SD	Ellsworth Air Force Base.	Rapid City.
17	CA	George Air Force Base.	Victorville.
17	WA	Naval Undersea Warf Sta (4 Areas).	Keyport.
17	NC	Camp Lejeune Military Reservation.	Onslow County.
18	RI	Newport Naval Educat/Training Cen.	Newport.
18	AZ	Yuma Marine Corps Air Station.	Yuma.
18	FL	Jacksonville Naval Air Station.	Jacksonville.
18	IL	Joliet Army Ammu Plant (Mfg Area).	Joliet.
18	FL	Cecil Field Naval Air Station.	Jacksonville.
18	WA	Fairchild Air Force Base (4 Areas).	Spokane County.
19	CA	March Air Force Base.	Riverside.
19	TX	Lone Star Army Ammunition Plant.	Texarkana.
19	CA	Lawrence Livermore Lab-300 (USDOE).	Livermore.
19	OR	Umatilla Army Depot (Lagoons).	Hermiston.
19	MD	Aber Prov Ground-Michaelsville Lf.	Aberdeen.
20	MN	Naval Industrial Reserve Ordnance.	Fridley.
20	WA	Bangor Ordnance Disposal.	Bremerton.
20	NY	Plattsburgh Air Force Base.	Plattsburgh.
20	LA	Louisiana Army Ammunition Plant.	Doyline.
20	MO	Weldon Spring Form Army Ord Works.	St. Charles County.
21	IA	Iowa Army Ammunition Plant.	Middletown.
21	NJ	Naval Weapons Stat Earle (Site A).	Colts Neck.
21	CA	Travis Air Force Base.	Solano County.
21	CA	Moffett Naval Air Station.	Sunnyvale.
22	CA	Mather Air Force Base.	Sacramento.
22	HI	Schofield Barracks	Oahu.

Number of NPL Federal Facility Sites: 116

* State top priority site.

[1]: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

[FR Doc. 90-20385 Filed 8-29-90; 8:45 am]

BILLING CODE 6560-50-M

federal register

Thursday
August 30, 1990

Part III

Federal Emergency Management Agency

44 CFR Part 206

Disaster Assistance; Hazard Mitigation Planning and Hazard Mitigation Grant Program; Final Rules

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067-AB45

Disaster Assistance; Hazard Mitigation Planning (Subpart M)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) is today publishing a final rule at 44 CFR Part 206 to implement the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93-288, as amended (the Stafford Act, or the Act.) The Disaster Relief Act of 1974 was amended by the Disaster Relief and Emergency Assistance Amendments of 1988, Pub. L. 100-707. This subpart pertains to the hazard mitigation planning requirements of section 409 of the Stafford Act which prescribes Federal, State and local responsibilities following the declaration of a major disaster, or declaration for fire suppression assistance. Although the amendments to the Disaster Relief Act did not modify section 409, this rule was issued to update, simplify and clarify the existing Subpart M regulations. As appropriate, comments on the proposed rule, published September 14, 1989 (54 FR 37952), have been incorporated in this final rule.

EFFECTIVE DATE: This final rule will be effective on October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Assistant Associate Director, Disaster Assistance Programs, State and Local Programs and Support, 500 C Street, SW., Washington, DC, 20472, or contact Patricia Stahlschmidt, Program Officer, at (202) 646-3678.

SUPPLEMENTARY INFORMATION: With the passage of Public Law 100-707, section 406 of the Disaster Relief Act of 1974 was renumbered as section 409 of the Stafford Act, though the language in this section was not amended. The final regulations which are being published today have taken into account comments received on the proposed rule. Four sets of comments on the proposed rule were received from State governments and Federal agencies. The following discussion of comments is arranged in the order in which the subjects appear in the regulation.

1. General Comment on Need for Flexibility in Federal Policy

One reviewer commented that hazard mitigation objectives, needs, and capabilities will vary with the size of the State, the population densities, and the size of the areas at risk. The reviewer stated that flexibility in exercising Federal policy is needed to achieve hazard mitigation goals. FEMA agrees with this comment. As in the past, the planning requirements of Subpart M will be tailored to meet the needs and capabilities of each State. No changes to the regulations are required.

2. Requirements of the National Environmental Policy Act

A comment was made that although the actions addressed by Subpart M will be undertaken by State and local governments, where the National Environmental Policy Act does not apply, the final rule should specify how the requirements of the National Environmental Policy Act would be met when actions are authorized, approved, or funded by FEMA. There are, however, existing FEMA regulations addressing environmental requirements that pertain to all FEMA actions. These can be found at 44 CFR part 9 (Floodplain Management and Protection of Wetlands) and at 44 CFR part 10 (Environmental Considerations.) Since the existing environmental regulations will ensure compliance with National Environmental Policy Act, it was felt that no changes to the subpart M regulations were necessary.

3. Distinction Between Natural and Technological Hazards—Section 206.401

One comment suggested that the final rule more clearly distinguish between natural disasters and technological disasters. Section 409 of the Stafford Act states that "* * * the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards * * *". For the purposes of this regulation, a natural disaster will be defined as any natural catastrophe, including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, fire, or drought. Major disaster declarations can be made for natural disasters and for any fire, flood, or explosion, regardless of cause. If a declaration is made for a technological hazard, the recipients of Federal disaster assistance will be expected to evaluate those technological hazards for which assistance is made available. However, in order to be consistent with the language in section 409, subpart M emphasizes natural hazards only. The regulations have been changed to include a definition of natural disaster.

4. Definition of the State Hazard Mitigation Officer—Section 206.401

A reviewer proposed that the State Hazard Mitigation Officer be designated by the Governor's Authorized Representative, as is the case in the Interim Regulations for the Hazard Mitigation Grant Program found at § 206.431(k), published May 22, 1989 (54 FR 22173). Several States have a full time State Hazard Mitigation Officer, designated by the Governor to handle mitigation issues before, during, and after disasters. When a Presidential disaster is declared, the Governor's Authorized Representative is appointed to coordinate the recovery effort. The State Hazard Mitigation Officer may not be appointed directly by the Governor's Authorized Representative, but will work through the Governor's Authorized Representative in managing hazard mitigation issues related to the disaster. If the State has a full time State Hazard Mitigation Officer, that person should work on the disaster recovery to ensure continuity in hazard mitigation planning for the State. The inconsistency in definition of the State Hazard Mitigation Officer in Subparts M and N has been corrected by deleting the separate definition previously found in the Interim Regulations for Subpart N, and by slightly revising the definition of State Hazard Mitigation Officer to include all mitigation programs and activities required under the Stafford Act.

5. Role and Responsibilities of the Governor's Authorized Representative—Section 206.402

One commenter suggested that the final rule should indicate the responsibilities of the Governor's Authorized Representative, as opposed to the State, for the development/update of the hazard mitigation plan. Section 206.402(c) of the final rule describes the responsibilities of the State in carrying out the requirements of section 409 of the Stafford Act. This section states that the State Hazard Mitigation officer will report to the governor or his or her authorized represenative. Since the Governor's Authorized Representative is appointed by the Governor, FEMA does not see the need to distinguish between the State and the Governor's Authorized Representative. Moreover, mitigation planning can span a long period of time and can include a variety of activities, from evaluation of hazards through updating of the mitigation plan. These activities may or may not be under the

responsibility of the Governor's Authorized Representative, depending on the circumstances under which the plan is developed, and on the discretion of the State. Therefore, no changes have been made to the regulations concerning the role and responsibilities of the Governor's Authorized Representative.

6. Responsibilities of the State Hazard Mitigation Officer—Section 206.402(c)

One reviewer suggested that the final rule more clearly state the responsibilities of the State Hazard Mitigation Officer, such as in preparation of the hazard mitigation plan and participation on the post disaster hazard mitigation teams. Section 206.402 (c) (1) has been revised to state that the State Hazard Mitigation Officer will coordinate all post disaster hazard mitigation activities, as well as serve as the point of contact for them. Section 206.402 (c) (2) and (3) already include preparation of the mitigation plan and participation on the post disaster mitigation teams as responsibilities of the State, and therefore of the State Hazard Mitigation Officer. Section 206.402 (c)(4) has been expanded to require the State Hazard Mitigation Officer to arrange for appropriate State, as well as local, participation on the post disaster mitigation teams. Further clarification of the State Hazard Mitigation Officer responsibilities is provided in FEMA guidance documents rather than in regulation.

7. Evaluation of a Statewide Comprehensive Hazard Mitigation Plan, Program or Strategy—Section 206.403(b) (1)

One reviewer was uncertain what was meant by FEMA's evaluation of the status of a statewide comprehensive hazard mitigation plan, program, or strategy in responding to a request for a disaster declaration. The purpose of this requirement is to recognize that many States have adopted a statewide approach to hazard mitigation planning so that mitigation measures, such as improved standards for roads, will have an impact throughout the State. The status of the statewide plan, program, or strategy is to be evaluated as part of the pre-declaration process to determine whether or not the statewide plan has had any impact on the disaster for which assistance is being requested. In fact, § 206.405(b) encourages States to develop basic mitigation plans that can simply be expanded or updated as new disaster declarations are made so that a new plan does not need to be developed for each disaster declaration.

8. Goals of Hazard Mitigation Plans—Sections 206.405(a) (3) and 206.406(f)

One comment suggested that the goal of hazard mitigation plans specifically include protection of natural and beneficial values of floodplains as well as flood loss proection. FEMA agrees with this statement, but does not think the final rule is the place for identifying specific goals of the hazard mitigation plans. This level of guidance is provided in the handbook for State officials in implementation of subpart M, and in other materials. No changes were made to the regulations as a result.

9. Identification of Projects to be Funded Under the Hazard Mitigation Grant Program—Section 206.406(g)

This paragraph of the regulations has been revised to more precisely describe the relationship between the hazard mitigation planning requirements of subpart M and the Hazard Mitigation Grant Program requirements of subpart N.

Environmental Considerations

An environmental assessment has been prepared, leading to the determination that this rule will not have a significant impact on the environment and that an Environmental Impact Statement is not required. The assessment is available for review at the Office of the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Regulatory Flexibility

FEMA has determined that this rule is not a major rule under Executive Order 12291, and will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Hence, no regulatory impact analyses have been prepared.

Federalism Assessment

In promulgating these rules, FEMA has considered the President's Executive Order on Federalism issued on October 26, 1987 (E.O. 12612, 52 FR 41685). The purpose of the order is to assure the appropriate division of government responsibilities between the national government and the States. Among other provisions, this rule implements the requirement that agency rules be in accordance with the so-called common rule, adopted by FEMA at 44 CFR part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. These regulations conform FEMA assistance to the Executive Order 12612. To describe this, a Federalism assessment has been prepared. It may be obtained or reviewed at the Office of the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Information Collection Requirement

The information collection requirement contained in this rule has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and assigned OMB control number 3067–0212. Public reporting burden for the requirement is estimated to average 480 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each plan. Send comments regarding this burden estimate or any aspect of this requirement, including suggestions for reducing this burden, to Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472; and to the Office of Management and Budget, Paperwork Reduction Project (3067–0212), Washington, DC 20503.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Coastal zone, Community facilities, Disaster assistance, Fire prevention, Grant programs—housing and community development, Housing, Insurance, Intergovernmental relations, Loan programs—housing and community development, Natural resources, Penalties, Reporting and recordkeeping requirements.

Accordingly, FEMA is amending part 206, subpart M of chapter I, subchapter D, of title 44 CFR to read as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

1. The authority citation for part 206 is revised to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended by Pub. L. 100–707; 42 U.S.C. 5121, *et seq.*; Reorganization Plan No. 3 of 1978 (3 CFR 1979, p. 329); E.O. 12148 (3 CFR, 1980, p. 412) as amended by E.O. 12673 (3 CFR, 1990, p. 214), and E.O. 12673.

2. Part 206 is amended by revising subpart M to read as follows:

Subpart M—Hazard Mitigation Planning

Subpart M—Hazard Mitigation Planning

§ 206.400 General.

This subpart prescribes the requirements for implementation of section 409 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended, hereinafter referred to as the "Stafford Act") and prescribes Federal, State and local hazard mitigation planning responsibilities following the declaration of a major disaster or emergency, or declaration for fire suppression assistance pursuant to section 420 of the Stafford Act.

§ 206.401 Definitions.

Federal Hazard Mitigation Officer is the FEMA employee responsible for carrying out the overall responsibilities for hazard mitigation and for this subpart, including coordinating post-disaster hazard mitigation actions with other agencies of government at all levels.

Hazard Mitigation means any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards.

Hazard Mitigation Grant Program means the program authorized under section 404 of the Stafford Act, which may provide funding for certain mitigation measures identified through the evaluation of hazards conducted under section 409 of the Stafford Act.

Hazard Mitigation Plan means the plan resulting from a systematic evaluation of the nature and extent of vulnerability to the effects of natural hazards present in society and includes the actions needed to minimize future vulnerability to hazards, as required under section 409 of the Stafford Act.

Hazard Mitigation Plan Update means an update to the existing hazard mitigation plan, which may be accomplished either by updating the status of mitigation actions within the existing plan, or by expanding the existing plan to address additional hazards or mitigation issues.

Hazard Mitigation Survey Team means the FEMA/State/Local survey team that is activated following disasters to identify immediate mitigation opportunities and issues to be addressed in the section 409 hazard mitigation plan. The Hazard Mitigation Survey Team may include representatives of other Federal agencies, as appropriate.

Interagency Hazard Mitigation Team means the mitigation team that is activated following flood related disasters pursuant to the July 10, 1980 Office of Management and Budget directive on Nonstructural Flood Protection Measures and Flood Disaster Recovery, and the subsequent December 15, 1980 Interagency Agreement for Nonstructural Damage Reduction.

Local Hazard Mitigation Officer is the representative of local government who serves on the Hazard Mitigation Survey Team or Interagency Hazard Mitigation Team and who is the primary point of contact with FEMA, other Federal agencies, and the State in the planning and implementation of post-disaster hazard mitigation activities.

Measure means any mitigation measure, project, or action proposed to reduce risk of future damage, hardship, loss or suffering from disasters.

Natural Disaster is any natural catastrophe, including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, fire, or drought.

State Hazard Mitigation Officer is the representative of State government who is the primary point of contact with FEMA, other Federal agencies, and local units of government in the planning and implementation of post-disaster mitigation programs and activities required under the Stafford Act.

§ 206.402 Responsibilities.

(a) *General.* This section identifies the key responsibilities of FEMA, States, and local participants in carrying out the requirements of section 409 of the Stafford Act.

(b) *FEMA.* The key responsibilities of the FEMA Regional Director are to:

(1) Oversee all FEMA-related pre- and post-disaster hazard evaluation and mitigation programs and activities;

(2) Appoint a Federal Hazard Mitigation Officer for each disaster to manage hazard mitigation programs and activities;

(3) Provide technical assistance to State and local governments in fulfiling mitigation responsibilities;

(4) Conduct periodic review of State hazard mitigation activities and programs to ensure that States are adequately prepared to meet their responsibilities under the Stafford Act;

(5) Assist the State in the identification of the appropriate mitigation actions that a State or locality must take in order to have a measurable impact on reducing or avoiding the adverse effects of a specific hazard or hazardous situation.

(6) Subsequent to a declaration, follow-up with State and local governments to ensure that mitigation commitments are fulfilled, and when necessary, take action, including recovery of funds or denial of future funds, if mitigation commitments are not fulfilled.

(c) *States.* The key responsibilities of the State are to coordinate all State and local responsibilities regarding hazard evaluation and mitigation, and to;

(1) Appoint a State Hazard Mitigation Officer, who reports to the governor's authorized representative, and who serves as the point of contact for and coordinates all matters relating to section 409 hazard mitigation planning and implementation;

(2) Prepare and submit, in accordance with the FEMA/State Agreement and the requirements of this subpart, a hazard mitigation plan(s) or update to existing plan(s), as required under § 206.405. Such plan or update is to include an evaluation of the natural hazards in the declared area, and an identification of appropriate actions to mitigate those hazards;

(3) Participate in the Hazard Mitigation Survey Team or Interagency Hazard Mitigation Team activated after the declaration;

(4) Arrange for appropriate State and local participation on the Hazard Mitigation Survey Team or Interagency Hazard Mitigation Team and in the section 409 planning process;

(5) Follow-up with State agencies and local governments to assure that appropriate hazard mitigation actions are taken. This involves coordination of plans and actions of local governments to assure that they are not in conflict with each other or with State plans;

(6) Ensure that the activities, programs and policies of all State agencies related to hazard evaluation, vulnerability, and mitigation are coordinated and contribute to the overall lessening or avoiding of vulnerability to natural hazards.

(d) *Local Governments.* The key responsibilities of local governments are to:

(1) Participate in the process of evaluating hazards and adoption of appropriate hazard mitigation measures, including land use and construction standards;

(2) Appoint a Local Hazard Mitigation Officer, if appropriate;

(3) Participate on Hazard Mitigation Survey Teams and Interagency Hazard Mitigation Teams, as appropriate;

(4) Participate in the development and implementation of section 409 plans or plan updates, as appropriate;

(5) Coordinate and monitor the implementation of local hazard mitigation measures.

§ 206.403 Pre-declaration activities.

(a) *General.* As part of FEMA's response to a Governor's request for a declaration, FEMA will evaluate information concerning the status of hazard mitigation efforts in the impacted State and localities.

(b) *Mitigation evaluation.* The mitigation review of State and local government activities in the impacted area shall include:

(1) The status of a statewide comprehensive hazard mitigation plans, programs, or strategies;

(2) The status of hazard mitigation plans or plan updates required as a condition of any previous declaration;

(3) The status of any actions which the State or localities agreed to undertake as a condition of past disaster assistance;

(4) The status of any mitigation measures funded under section 404 of the Stafford Act for any previous declaration;

(5) The status of any other hazard evaluation and mitigation projects funded under other FEMA or other Federal agency programs;

(6) An evaluation of the impact of the hazard(s) and any corresponding mitigation issues pertinent to the area for which Federal disaster assistance is being requested;

(7) Any other hazard evaluation and mitigation information available and considered relevant.

(c) *FEMA-State agreement.* Based on the conditions warranted by the declaration, and on the findings of the mitigation evaluation, the FEMA-State Agreement shall include appropriate mitigation provisions, such as the requirement to prepare a hazard mitigation plan or update.

§ 206.404 Mitigation survey teams.

(a) *Hazard mitigation surveys.* Hazard mitigation surveys are performed immediately following the declaration of a disaster to identify the following:

(1) Hazard evaluation and mitigation measures that must be incorporated into the recovery process;

(2) Possible measures for funding under the Hazard Mitigation Grant Program, or under other disaster assistance programs;

(3) Issues for inclusion in the section 409 hazard mitigation plan.

(b) *Hazard Mitigation Survey Teams.* Hazard Mitigation Survey Teams shall be activated by the Regional Director immediately following the declaration to conduct hazard mitigation surveys. The Hazard Mitigation Survey Team shall consist of FEMA, State, and appropriate local government representatives, and representatives of any other Federal agencies that may be appropriate. In the case of flood declarations, the Interagency Hazard Mitigation Team will serve the purpose of the Hazard Mitigation Survey Team.

(c) *Survey team reports.* Within 15 days following a declaration Hazard Mitigation Survey Team report shall be prepared and distributed in accordance with FEMA policies and procedures. The Regional Director has the authority to extend this due date when necessary.

§ 206.405 Hazard mitigation plan.

(a) *General.* In order to fulfill the requirement to evaluate natural hazards within the designated area and to take appropriate action to mitigate such hazards the State shall prepare and implement a hazard mitigation plan or plan update. At a minimum the plan shall contain the following:

(1) An evaluation of the natural hazards in the designated area;

(2) A description and analysis of the State and local hazard management policies, programs, and capabilities to mitigate the hazards in the area;

(3) Hazard mitigation goals and objectives and proposed strategies, programs, and actions to reduce or avoid long term vulnerability to hazards.

(4) A method of implementing, monitoring, evaluating, and updating the mitigation plan. Such evaluation is to occur at least on an annual basis to ensure that implementation occurs as planned, and to ensure that the plan remains current.

(b) *Plan approach.* Hazard mitigation plans should be oriented toward helping States and localities to develop hazard management capabilities and programs as part of normal governmental functions. All States are encouraged to develop a basic mitigation plan prior to the occurrence of a disaster, so that the basic plan can simply be expanded or updated to address specific issues arising from the disaster. At the time of a declaration, the Regional Director, in consultation with the State, shall determine whether a new mitigation plan is required as a result of the declaration, or whether an existing plan can simply be updated or expanded.

(c) *Plan content and format.* The specific content and format of a hazard mitigation plan or plan update shall be determined through guidance and technical assistance that the Regional Director provides to the State during the section 409 planning process. At a minimum, the plan or update must address the items listed in paragraph (a) of this section.

(d) *Plan submission.* All States shall submit a hazard mitigation plan or plan update on behalf of the State and any appropriate local governments included in the designated area. The plan or update is due to FEMA within 180 days of the date of the declaration. The Regional Director may grant extensions to this date not to exceed 365 days from the date of the declaration when adequate justification is received in writing from the State. Extensions beyond that date must be forwarded with justification to the Associate Director for approval.

(e) *Plan approval.* Upon receipt of a hazard mitigation plan or plan update, the Regional Director shall acknowledge receipt in writing to the Governor or appropriate agency. Written comments shall state whether the plan is approved, shall detail any shortcomings that may exist, and shall include a suggested method and timeline for correction if necessary.

(Approved by the Office of Management and Budget under OMB control number 3067–0212.)

§ 206.406 Hazard mitigation planning process.

(a) *General.* A sound planning process is essential to the development and implementation of an effective hazard mitigation plan. A critical element of successful mitigation planning is the involvement of key State agencies, local units of government, and other public or private sector bodies or agencies that influence hazard management or development policies within a State or local unit of government. This section identifies principal components of the mitigation planning process.

(b) *FEMA technical assistance.* States may request the Regional Director to provide technical assistance and guidance throughout the planning process to ensure that the plan or update adequately addresses mitigation concerns related to the disaster. Technical assistance may include but is not limited to:

(1) Identification of mitigation issues through the Interagency Hazard Mitigation Team or Hazard Mitigation Survey Team report;

(2) Initial meeting with the State to identify key staff, timeline, and scope of work for development of the hazard mitigation plan or update;

(3) Review of timelines, outlines, drafts, and other appropriate material during development of the hazard mitigation plan or update.

(4) Provision of Federal technical assistance information and identification of technical experts, if needed.

(c) *State involvement.* Though the primary responsibility for development of a hazard mitigation plan is assigned to one State agency, any State agency that influence development within hazardous areas through ongoing programs and activities should be involved in the development and implementation of hazard mitigation plans. This includes, but is not limited to, agencies involved with emergency management, natural resources, environmental regulations, planning and zoning, community development, building regulations, infrastructure regulation or construction, public information, and insurance. It is the responsibility of the State agency assigned lead responsibility for hazard mitigation to ensure that all other appropriate State agencies have the opportunity to participate in development and implementation of hazard mitigation planning.

(d) *Local involvement.* Local participation in hazard mitigation planning is essential because regulation and control of development within hazardous areas normally occurs at the local level. It is the responsibility of the State to ensure that appropriate local participation is obtained during development and implementation of hazard mitigation planning.

(e) *Private sector involvement.* When appropriate, a State or local government may choose to involve the private sector in the planning process. Support from the private sector is often essential to successful implementation of mitigation strategies at the local level. Involvement of the private sector in the early stages of the planning process may facilitate understanding and support for mitigation.

(f) *Development of hazard mitigation goals and objectives.* The participants in the planning process shall develop the basic mitigation goals and objectives from which the proposed hazard mitigation strategies, programs, and actions required under § 206.405(3) shall be drawn.

(g) *Identification of projects to be funded under the Hazard Mitigation Grant Program.* The Hazard Mitigation Grant Program, authorized under section 404 of the Stafford Act, provides up to 50 percent Federal funding for cost-effective mitigation measures that are consistent with the evaluation of hazards under section 409. Throughout the process of preparing a hazard mitigation plan or plan update, the State and local governments will be evaluating natural hazards and identifying potential mitigation measures which may be eligible for funding under the Hazard Mitigation Grant Program. 44 CFR part 206, subpart N sets forth the regulations for funding these mitigation measures.

(h) *Coordination with other hazard evaluation and mitigation planning efforts.* During the process of developing a mitigation plan to satisfy requirements under this subpart, the State will ensure that the planning effort is coordinated with any other hazard evaluation and mitigation planning program within the State or local unit of government, including but not limited to the Disaster Preparedness Improvement Grant Program, the Hurricane Program, the Earthquake Hazard Reduction Program, the Dam Safety Program, the National Flood Insurance Program, and other similar programs of FEMA and other Federal agencies.

(i) *Evaluation and monitoring.* The State is responsible for monitoring and evaluating implementation of the hazard mitigation plan and for submitting annual progress reports to FEMA. The progress report will briefly indicate the status of implementation of the mitigation actions contained within the plan, and will include documentation relating to measures which have been implemented, where appropriate. The Regional Director may require the State to provide additional progress reports or more specific information on particularly critical mitigation actions, if necessary.

§ 206.407 Minimum standards.

(a) *General.* As a condition of any disaster loan or grant made under the Stafford Act, section 409 requires that the recipient shall agree that any repair or construction shall be in accordance with applicable standards of safety, decency, and sanitation, and in conformity with applicable codes, specifications, and standards. The hazard mitigation planning process required under section 409 can assist with the identification of inadequate standards as described below.

(b) *Local standards.* The cost of bringing a facility up to minimum standards is an eligible cost under subpart H of this part when such standards apply to the types of work being performed. These standards, including standards for hazard mitigation, can either be in place at the time of the disaster or can be adopted prior to approval of the project. Where current mitigation standards are inadequate, new standards may be identified in the following ways:

(1) Through the Interagency Hazard Mitigation Team or Hazard Mitigation Survey Team;

(2) Through the hazard mitigation planning process;

(3) By the State or local governments;

(4) Through the public assistance program; and,

(5) Through identification of mitigation measures under the Hazard Mitigation Grant Program.

(c) *Compliance.* The State shall ensure that the sub-grantee meets compliance with minimum standards as that term is used in section 409.

Dated: August 17, 1990.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 90-20224 Filed 8-29-90; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067-AB37

Disaster Assistance; Hazard Mitigation Grant Program (Subpart N)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) is today publishing Final Rule at 44 CFR part 206 to implement section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93-288, as amended (the Stafford Act, or the Act.) The Disaster Relief Act of 1974 was amended by the Disaster Relief and Emergency Assistance Amendments of 1988, Pub. L. 100-707. This subpart pertains to the Hazard Mitigation Grant Program (HMGP), authorized under section 404 of the Stafford Act, 42 U.S.C. 5170c. The HMGP provides up to 50 percent funding to State and local governments and certain private nonprofit organizations for hazard mitigation measures. As appropriate, comments on the Interim Rule, published May 22, 1989, have been incorporated in this Final Rule.

EFFECTIVE DATE: This Final Rule will be effective on October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Assistant Associate Director, Disaster Assistance Programs, State and Local Programs and Support, 500 C Street, SW., Washington, DC, 20472, or contact Patricia Stahlschmidt, Program Officer, at (202) 646-3678.

SUPPLEMENTARY INFORMATION: The President signed the Disaster Relief and Emergency Assistance Amendments of 1988 (Pub. L. 100-707) on November 23, 1988. This law amended the Disaster Relief Act of 1974, Public Law 93-288, and retitled it the Stafford Act. On May 22, 1989, FEMA published in the Federal Register at 54 FR 22173 an Interim Rule with a request for comments. The Interim Rule was published to implement section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Final Regulations which are being published today have been taken into account comments received on the Interim Rule. Existing regulations at 44 CFR part 205 remain in effect to govern those major disasters and emergencies declared to enactment of the Stafford Act.

Seven sets of comments were received from State and local governments and other interested groups. The following discussion of comments is arranged in the order in which the subjects appear in the regulation.

1. General Comment on the Tone of the Regulation

One reviewer commented that, while it believed the mitigation project criteria were flexible and represented an excellent approach to accomplishing mitigation needs, it objected to the directive tone of the regulation. The reviewer suggested that terms such as "recommend" and "suggest" would be more appropriate to fostering a partnership approach to mitigation between FEMA and the States. While FEMA agrees that implementation of the HMGP does involve a partnership with States, the purpose of subpart N is to establish minimum requirements that State and local governments must meet. Terms such as "recommend" and "suggest" do not establish requirements, and can lead to unclear and inconsistent implementation of the program. Therefore, no changes have been made to the regulation to the use these types of terms in place of minimum requirements.

2. Definition of Application—Section 206.431(b)

Several reviewers confused funding under section 404 with hazard mitigation for damaged public facilities eligible under section 406. A new definition for applicant was suggested to grant first priority to section 406 projects. FEMA met with these reviewers and clarified the fact that hazard mitigation for public facilities is an eligible item under section 406, as described under § 206.226, and that section 404 is a separate grant program which is not to be used as a substitute for section 406. On that basis the comment was dropped. However, several reviewers still objected to the 60 day deadline for submission of the HMGP application. That deadline has changed as described below under the discussion of § 206.436(c). The definition of "Application" has been also been revised to delete the reference to the 60 day period.

3. Definitions of Hazard Mitigation Survey Team, Interagency Hazard Mitigation Team, and State Hazard Mitigation Officer—Section 206.431 (e), (f), and (k)

These definitions have been deleted from subpart N because they are contained in 44 CFR part 206, subpart M, § 206.401, which is published elsewhere in this issue.

4. Definition of Supplement—Section 206.431(k)

Some users of the interim regulations have been confused over the term supplement. A definition for this term has been added to the regulations to clarify its meaning.

5. Federal Grant Assistance—Section 206.432

One reviewer indicated support for the approach to estimating Federal funding available as explained in the Supplementary Information for the interim regulation, because it permits funding of projects immediately after the disaster declaration. The approach was to allow the State to operate under an initial estimate of funds available, beginning with the Preliminary Damage Assessment information, until such time as adequate public assistance data is available to determine the final figure of funds available under the HMGP. The final figure of Federal funds available under the HMGP is limited to ten percent of the Federal share of funds authorized under section 406 of the Act. This figure includes the associated expenses authorized under section 406 as well as the grants for damaged public facilities. In order to clarify this fact, the phrase "and all associated expenses" has been added to this section of the regulations, and to the definition of "Grant."

6. Cost Sharing—Section 206.432(c)

It was suggested that the last two sentences of this section, which stated that costs above the Federally approved estimate for mitigation are the responsibility of the grantee and subgrantee, be deleted. The rationale was that these sentences assume that the grantee and subgrantee will always share in these costs, and that other sources of funds might not be used. The intent here was to make it clear that any costs above the Federally approved estimate for the mitigation are not the responsibility of FEMA, not to dictate who else should pay those costs. On that basis these sentences have been revised to clarify FEMA's intent.

7. State Hazard Mitigation Officer Title and Responsibilities—Section 206.433(c)

One commenter felt that the regulation inappropriately dictates the position title and job responsibilities of the State Hazard Mitigation Officer in the above section and in § 206.431(k) and § 206.437(b)(2). The commenter felt that these paragraphs usurp the State's prerogative to determine staff organization and job tasks, and that they exceed requirements and intent as contained in § 206.402(c), which delineates the State responsibilities under subpart M Hazard Mitigation Planning. The regulation does not intend to dictate the State's staff organization nor job tasks or titles by requiring that a State Hazard Mitigation Officer be appointed to serve as the responsible individual for all matters relating to the HMGP. However, just as with the individual and public assistance programs, it is necessary that an individual on the State staff be a point of contact and be responsible for the HMGP. The regulation does not dictate from what agency the individual should be appointed, and does not dictate job title or responsibilities outside of his or her relationship to the HMGP. With respect to this exceeding the requirements and intent of § 206.402(c) of the hazard mitigation planning regulations, the HMGP provides a method of funding mitigation measures identified through the hazard mitigation plan required under section 409 and subpart M. The HMGP and the hazard mitigation planning requirements are both key responsibilities of the State Hazard Mitigation Officer and are integrally related. Therefore, the HMGP regulations do not exceed the intent of § 206.402(c).

8. Minimum Project Criteria—Section 206.434(b)

One commenter expressed concern that the minimum project criteria relative to funding studies and analyses was too restrictive. It was felt that this approach would not allow an analysis to be conducted to determine the best mitigation alternative, particularly if there were an immediate threat to public health and safety. Section 206.434(b)(4) states that mitigation projects that

merely identify or analyze hazards or problems are not in and of themselves mitigation, and are therefore not eligible. This does not preclude funding a study or analysis, so long as mitigation measure(s) actually result from the study or analysis, and are a part of the total project. Section 206.434(b)(5)(i), which lists the factors used to determine the cost-effectiveness of a project, has been revised to include a reference to public health and safety when evaluating the cost-effectiveness of a project.

9. Measuring Cost-Effectiveness of Projects—Section 206.434(b)(5)

One commenter strongly recommended that rigid and involved criteria such as "Principles and Guidelines" not be used to measure cost effectiveness, as this discriminates against nonstructural flood protection programs, and can be an expensive, time consuming process. The regulation does not require the use of "Principles and Guidelines" to measure cost-effectiveness, nor does it intend to require procedures that would discourage nonstructural mitigation projects. The cost-effectiveness criteria in the regulation are designed to encourage that the most practical, effective, and environmentally sound project is selected after consideration of a range of alternatives. FEMA guidance on measuring cost-effectiveness does require that both benefits and costs must be calculated on a net present value basis, and that applicants use the discount rate of 10 percent, as established in OMB Circular No. A–94. The method used to determine cost-effectiveness should be appropriate to the cost and type of project for which funds are being requested. No change has been made to this section based on this comment.

10. Funding of Projects to Protect Private Property—Section 206.434(c)

There was some concern that, since the HMGP funding is determined by the funding available under section 406 for public assistance, mitigation would be limited to public facilities. This reviewer was pleased to see that the regulation also allows projects that protect private property.

11. Duplication of Programs—Section 206.434(d)

Concern was expressed that the mere existence of a program under other Federal authority does not mean that sufficient funds or services are available to meet identified hazard mitigation needs. The limitations expressed in this paragraph were therefore thought to be inconsistent with other sections of the Stafford Act dealing with duplication of benefits, and with major disaster and emergency assistance programs. In order to address this concern a phrase was added to this section stating that section 404 funds could not be used as a substitute or replacement to fund projects or programs that are available under other Federal authorities, except under limited circumstances in which there are extraordinary threats to lives, public health or safety or improved property. The intent of this phrase is to ensure that critical mitigation measures that must be taken to protect life and property from imminent threat are not lost because another Federal program or authority exists but has no funding.

12. Project Identification and Selection Criteria—Section 206.435

Support was expressed for the key role of the State's hazard mitigation plan, required under section 409 of the Act, in setting funding priorities under the HMGP. It was felt that the other selection criteria for projects were properly few and appropriate. The Stafford Act states that the measures to be funded under section 404 shall be identified following the evaluation of hazards under section 409. The close tie between sections 404 and 409 is therefore readily apparent, and is substantiated by this comment.

13. Hazard Mitigation Application Period—Section 206.436(c)

A number of comments were received relative to the application period. Several commenters felt that the 60 day time frame for submission of the application is too short. Initial experience with the HMGP seems to bear this out. In all major disaster declarations that have occurred since the passage of the Stafford Act, time extensions for the 60 day application period have been granted to States, though this delay is due in part to the fact that States did not have administrative plans in place for the HMGP prior to the declaration. One commenter expressed support for the 60 day deadline because it provided incentive for the State to complete preliminary mitigation planning as quickly as possible, and to take advantage of immediate post-disaster mitigation opportunities. This was exactly the reason for setting the 60 day application in the interim regulation. Another commenter suggested that the wording be changed to permit the Governor's Authorized Representative to submit a notice that the grantee will submit one or more mitigation measures for funding without designating a specific section 404 mitigation project within the first 60 day period. In order to address these concerns, this section of the regulation has been revised to require that the State submit a letter of intent to participate or not participate in the HMGP within the first 60 days. The HMGP application can be submitted anytime up to the final deadline for submission of new projects, though it is still encouraged that the application be submitted within the first 60 days following the declaration so that immediate post-disaster opportunities for mitigation are not lost.

14. Deadline for Submitting Hazard Mitigation Grant Program Mitigation Projects to FEMA—Section 206.436(e)

One reviewer felt that the final deadline for identification and submission of mitigation measures to be funded under the HMGP is too short. The Interim Regulation required that all measures be submitted to FEMA within 60 days of FEMA approval of the section 409 mitigation plan. This deadline has now been revised to require submission of all projects within 90 days of FEMA approval of the mitigation plan. The Regional Director may grant up to a 90 day extension to this deadline upon receipt of written justification from the State. This extension will be particularly appropriate for States that already have an acceptable hazard mitigation plan at the time of the declaration, and need the full 180 days to identify HMGP projects.

15. State Administrative Plan—Section 206.437

Very diverse comments were received relative to the State administrative plan for the HMGP. One commenter expressed support for the requirement to have the administrative plan in place prior to a disaster. Other commenters disagreed on whether the administrative plan should become a part of the State's overall emergency response or operations plan as a separate chapter or annex, or should merely be incorporated by reference. Yet another commenter felt that the planning requirements under disaster assistance programs were duplicative and not coordinated. Because there was no agreement on whether the administrative plan should be part of the overall emergency response or operations plan, and because this section of the regulations merely states that the administrative plan "should" and not "must" be a separate annex or chapter, no change was made to the regulation.

With respect to duplication of planning requirements, FEMA encourages close coordination between

development of the administrative plans for public assistance and the HMGP, which have similar funding and grant management requirements. The regulation also requires very close coordination between the HMGP and the section 409 plan, because the section 409 plan is instrumental in identifying projects to be funded under the HMGP. FEMA does not intend that the administrative plan for the HMGP be a lengthy document. The emphasis should be on providing useful guidance to the State on the procedures necessary to implement the HMGP. The State and the FEMA regional office should work together to ensure that the format of the administrative plans fits the State's needs, and that the planning requirements are clear and well understood. Because the regulations allow the administrative plan to be tailored to meet the States' needs, so long as the minimum criteria outlined in § 206.437 are met, there was no change to this section of the regulation.

16. Project Management Cost Overruns—Section 206.438(b)

One commenter felt that the requirement for the grantee to submit all cost overruns over 10 percent to the Regional Director for final determination was arbitrary. Further, the commenter felt that the linkage of cost overruns to offsetting cost underruns unjustly disadvantages the grantee and subgrantee. The intent of these requirements was to provide the grantee with some flexibility in managing minor cost overruns or underruns, while at the same time ensuring that FEMA was involved in more significant cost changes. FEMA has agreed to delete the requirement that the cost overruns above 10 percent be approved by the Regional Director. This paragraph has been revised to state that cost overruns which can be met without additional Federal funds, or which can be met with offsetting cost underruns on other projects, need not be submitted to the Regional Director for approval, so long as the full scope of work on all affected projects can still be met. If additional Federal funds are needed for project(s), the Governor's Authorized Representative shall submit such requests, with a recommendation and justification, to the Regional Director for final approval. The requirement remains that in no case will the total amount obligated exceed the funding limits of the HMGP. FEMA will continue to be aware of the status of all projects through the quarterly reporting requirement.

17. Quarterly Progress Reports—Section 206.438(c)

One commenter suggested that the requirement for progress reports be made semi-annually rather than quarterly. It was felt that in a large scale disaster the requirement for a quarterly report places a tremendous administrative burden on the State disaster recovery staff, especially in the first three to six months of the recovery period. FEMA chose to require quarterly progress reports because this is a new grant program which will require fairly close monitoring, and because quarterly reporting is the normal requirement for other FEMA programs. It is not intended that these quarterly progress reports be lengthy or complex.

FEMA's primary concern is that any schedule or cost deviations from the approved scope-of-work be reported in a timely manner. It is not anticipated that this reporting requirement would be a burden in the early stages of a disaster because the first quarterly report would not be required until three months after funding of the first HMGP project, which might be several months after the declaration. Until such time as FEMA and States develop more experience with the HMGP, and it is proven that less frequent reporting would be sufficient, FEMA will continue to require quarterly progress reports for the HMGP.

18. Allowable Costs—Section 206.439

No comments were received on this section of the regulation. However, changes have been made to this section based on comments that were submitted previously to § 206.228 (subpart H Public Assistance Eligibility) of the Interim Rule for public assistance, because the grantee and subgrantee are entitled to the same administrative and management costs in both programs. The comments received by public assistance are described below, along with the revisions made to § 206.439 to address these comments.

One letter questioned the use of the term "direct costs" and "indirect costs" as used in § 206.228 (a) and (b) of the interim regulations, and their relationship to what is eligible under OMB Circular A–87. This circular is referenced in FEMA's regulation 44 CFR part 13. There are four separate issues in the comment.

First, the commenter believes that a grantee's administrative costs can be calculated under the Stafford Act, (section 406(f)), and that the grantee's total cost of administering the program can also be calculated. The commenter contends that the difference between the two should be eligible as "State management costs." This is essentially correct. There are now two categories of direct administrative costs for the grantee: "Statutory" and "State Management." Statutory administrative costs are calculated in accordance with section 406(f) of the Stafford Act. The State Management administrative costs follow the guidance of 44 CFR part 13. However, with respect to subgrantees of the States, the only administrative costs which are eligible are those covered by the Stafford Act. This is because section 406(f) of the Act defines as eligible those costs relating to "requesting, obtaining and administering Federal assistance * * *." FEMA interprets this provision to mean that all of a subgrantee's administrative expenses are to be covered by this percentage allowance. A revision has been made to § 206.439 to clearly label the two types of direct costs as "Statutory Costs" (those covered under section 406(f) of the Act), and "State Management Costs," which are all other direct administrative costs of the grantee allowed by Part 13.

Second, the commenter questions whether the grantee's direct administrative costs should be cost shared. The requirement for the grantee to cost share direct administrative expenses is entirely consistent with the Stafford Act and with part 13. In OMB Circular A–87, Attachment A, paragraph A states in part: "The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant." Therefore, the 50 percent cost sharing requirements of section 404 are applied to the administrative costs associated with those grants. § 206.439 has been revised to state that this cost sharing applies.

Third, the commenter questions whether certain items such as overtime should be ineligible. There is a misunderstanding here. It is not that overtime is ineligible, but that it is specifically covered by a provision of the legislation which limits the amount which may be paid for overtime and other items. In section 406(f)(2) of the Act as percentage allowance is provided for "Extraordinary costs incurred by a State * * * including overtime pay and per diem and travel expenses of such employees, but not including pay for regular time of such employees, * * *." This section of the law covering these three items of costs supersedes the provisions of 44 CFR part 13 and Circular A–87. FEMA recognizes that States have assumed a significant role

in the management of the disaster assistance program, but the provisions of the law must be followed. Except for these three items, normal administrative costs will be considered in accordance with 44 CFR part 13.

The fourth comment concerning costs of administration is the item of "indirect costs." In response to the commenter, a new category of costs has been added to § 206.439 to allow for reimbursement of eligible indirect costs. These costs for the grantee are eligible in accordance with Circular A–87. However, the subgrantee will not receive indirect costs because all administrative expenses are covered by the statutory percentage allowance at section 406(f) of the Stafford Act.

19. Appeals—Section 206.440

Three groups commented on the requirement for FEMA to issue rules for fair and impartial consideration of appeals. The same comments had been made previously to § 206.206 (subpart G Public Assistance Project Administration) of the Interim Rule for public assistance. In addition, public assistance received two letters commenting on the length of the time allowed for submission of, and response to, appeals. Since the HMGP and public assistance provide consistent guidance for appeals, both § 206.206 and § 206.440 have been revised to address the concerns described below.

One item of major concern was whether a subgrantee had the right to appeal to FEMA. The question arose because the interim regulations at § 206.440(a) states: "The Governor's Authorized Representative may appeal any determination previously made related to Federal assistance for a subgrantee." This was interpreted to mean that only the grantee could make such an appeal. Section 423 of the Stafford Act relates to appeals from applicants. Under the new administrative procedures of part 13, there is only one application from the grantee for each disaster, and this is why the regulation section was written the way it was. (An exception to the one application rule may occur if a State cannot process the assistance for an Indian tribe, and a separate application is taken directly from the tribe.)

Upon review, it is clear from the usage of the word "applicant" in the Act that the reference is not only to a State agency for a State project, but also to a local government or private non-profit organizations or institutions. Accordingly, the appeals section has been changed to specifically provide that a subgrantee may appeal through the grantee to FEMA. The subgrantee has 60 days after receiving notice of the action which it is appealing to submit the appeal. The grantee is then required to make an evaluation and forward the appeal to FEMA with a written recommendation within 60 days of its receipt of the appeal.

The 60 day limit for submission of the appeal is contained in the Act and thus cannot be extended, as one letter requested. However, the 60 day limit applies separately to the actions of the subgrantee and the grantee, and not to the combined actions of those two parties. This should satisfy the concern of the commenter.

After the Regional Director receives the appeal, a response must be made within 90 days. That response may take the form of a determination or a request for additional information from the applicant. After receipt of any additional information which is requested, the Regional Director has 90 days to make a determination.

If the Regional Director denies the appeal, the appellant may make a second appeal to the Associate Director for State and Local Programs and Support. The same time limits for submission and response apply to the second appeal. One letter stated that the Associate Director should have only 90 days for the entire process. FEMA believes that the Regional Director and the Associate Director should have the opportunity to request additional information when necessary and should have sufficient time for that purpose. Without the extra information, appeals might have to be resolved based on inadequate information. This could be detrimental to the applicant's cause.

The remaining contentious area concerning appeals involves whether the regulation provides for fair and impartial consideration of appeals as required by section 423(c) of the Act. The commenter believed that the procedure proposed for submitting highly technical appeals to an independent scientific body did not satisfy the requirement of the Act and made several suggestions for change. The first was that appeals at the National Office level should be decided by the Agency Director. The Director of FEMA has delegated to the Associate Director all of the authorities of the Stafford Act, with the exception of the authority to make major disaster or emergency declaration recommendations to the President. Therefore, the Associate Director is an appropriate authority to make program decisions at the National Office level. A second suggestion was that, at the unilateral request of the grantee or subgrantee, an appeal would be submitted to an independent technical or scientific body for decision. The commenter stated that it was the intent of Congress for such a process to be used because the House H. Rpt. No. 100–517, 100th Cong., 2d Sess., relating to H.R. 2707, stated that the President should consider alternative dispute resolution mechanisms to the extent they may be appropriate. The process proposed in the Interim Rule was an attempt to respond to the Committee's concern. However, in response to the comment, FEMA has made a further examination of the procedure described in the Interim Rule and determined that an additional level of review is appropriate. Currently the Associate Director has the final appeal authority. For approximately the past year, FEMA has been tracking public assistance appeals to the Associate Director in its computer system. A review of this information shows that approximately seventy percent of the funds requested in these appeals have been approved. Thus, as demonstrated in the public assistance program, the process has been working generally in favor of the applicant.

Nevertheless, FEMA has decided to provide an additional level of appeal beyond the Associate Director. If an appellant is dissatisfied with the decision of the Associate Director, it may submit an appeal to the Director of FEMA. In appeals involving highly technical issues, the Director may solicit input from persons or organizations with expertise in the subject matter of the appeal. The Director would also have the option of delegating to FEMA personnel who are not associated with FEMA's Disaster Assistance Programs office, or to persons who are not employed by FEMA, either from the public or private sector, authority to recommend a proposed appeal decision. FEMA believes that this broad range of options for soliciting input to assist in the resolution of appeals will ensure fair and impartial consideration of appeals.

One final comment asked that some independent organization be tasked to review all of FEMA's appeal determinations for fairness and impartiality and to report its findings on an annual basis to the President and to Congress. FEMA does not believe that such a procedure is necessary, especially in light of the additional level of review which will be provided to appellants in the future. Therefore, no such change to the Interim Regulation is being made.

Environmental Considerations

An environmental assessment has been prepared, leading to the determination that this rule will not have a significant impact on the environment and that an Environmental Impact Statement is not required. The assessment is available for review at the Office of the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Regulatory Flexibility

FEMA has determined that this rule is not a major rule under Executive Order 12291, and will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Hence, no regulatory impact analyses have been prepared.

Federalism Assessment

In promulgating this rule, FEMA has considered the President's Executive Order on Federalism issued on October 26, 1987 (E.O. 12612, 52 FR 41685). The purpose of the Order is to assure the appropriate division of governmental responsibilities between national government and the States. Among other provisions, this rule implements the requirement that agency rules be in accordance with the so-called common rule, adopted by FEMA at 44 CFR part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. These regulations conform FEMA assistance to Executive Order 12612. To describe this, a Federalism assessment has been prepared. It may be obtained or reviewed at the Office of the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Reporting Requirements

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. 3501 *et seq.* Public reporting burden for the requirements is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each form. Send comments regarding this burden estimate or any aspect of this requirement, including suggestions for reducing the burden, to Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW., Washington DC 20472; and to the Office of Management and Budget, Paperwork Reduction Projects (3067–0207 and 3067–0208), Washington, DC 20503.

List of Subjects in 44 CFR Part 206

Administrative practices and procedure, Coastal zone, Community facilities, Disaster assistance, Fire prevention, Grant programs-housing and community development, Housing, Insurance, Intergovernmental relations, Loan programs—housing and community development, Natural resources, Penalties, Reporting and recordkeeping requirements.

Accordingly, FEMA is amending part 206, subpart N of chapter I, subchapter D, of title 44 CFR to read as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

1. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended by Pub. L. 100–707; 42 U.S.C. 5121, *et seq.*; Reorganization Plan No. 3 of 1978 (3 CFR, 1979, p. 329); E.O. 12148 (3 CFR, 1980, p. 412) as amended by E.O. 12673 (3 CFR, 1990, p. 214).

2. Part 206 is amended by revising subpart N to read as follows:

Subpart N—Hazard Mitigation Grant Program

Subpart N—Hazard Mitigation Grant Program

§ 206.430 General.

This subpart provides guidance on the administration of hazard mitigation grants made under the provisions of section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) hereafter referred to as the Stafford Act, or the Act.

§ 206.431 Definitions.

(a) *Applicant* means a State agency, local government, or eligible private nonprofit organization, as defined in subpart H of this part, submitting an application to the Governor's Authorized Representative for assistance under the Hazard Mitigation Grant Program.

(b) *Application* means the initial request for section 404 funding, as outlined in § 206.436.

(c) *Grant* means an award of financial assistance. The total grant award shall not exceed ten percent of the estimated Federal assistance provided under section 406 of the Stafford Act.

(d) *Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document. For purposes of this part, except as noted in § 206.436(g)(1), the State is the grantee.

(e) *Measure* means any mitigation measure, project, or action proposed to reduce risk of future damage, hardship, loss or suffering from disasters. The term "measure" is used interchangeably with the term "project" in this part.

(f) *Project* means any mitigation measure, project, or action proposed to reduce risk of future damage, hardship, loss or suffering from disasters. The term "project" is used interchangeably with the term "measure" in this part.

(g) *Section 409 Hazard Mitigation Plan* is the hazard mitigation plan required under section 409 of the Act as a condition of receiving Federal disaster assistance under Public Law 93–288, as amended. This hazard mitigation plan is the basis for the identification of measures to be funded under the Hazard Mitigation Grant Program.

(h) *State Administrative Plan for the Hazard Mitigation Grant Program* means the plan developed by the State to describe the procedures for administration of the Hazard Mitigation Grant Program.

(i) *Subgrant* means an award of financial assistance under a grant by a grantee to an eligible subgrantee.

(j) *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. Subgrantees can be a State agency, local government, private nonprofit organization, or Indian tribe as outlined in § 206.434.

(k) *Supplement* means an amendment to the hazard mitigation application to add or modify one or more mitigation measures.

§ 206.432 Federal grant assistance.

(a) *General.* This section describes the extent of Federal funding available

under the State's grant, as well as limitations and special procedures applicable to each.

(b) *Limitations on federal expenditures* The total of Federal assistance under section 404 shall not exceed 10 percent of the estimated Federal assistance provided under section 406. The estimate of Federal assistance under section 406 shall be based on the Regional Director's estimate of all Damage Survey Reports, associated expenses, and any other assistance authorized under section 406.

(c) *Cost sharing.* All mitigation measures approved under the State's grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. FEMA may contribute up to 50 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program. The nonfederal share may exceed the Federal share. FEMA will not contribute to costs above the Federally approved estimate.

§ 206.433 State responsibilities.

(a) *Grantee.* The State will be the Grantee to which funds are awarded and will be accountable for the use of those funds. There may be subgrantees within the State government.

(b) *Priorities.* The State will determine priorities for funding. This determination must be made in conformance with § 206.435.

(c) *Hazard Mitigation Officer.* The State must appoint a Hazard Mitigation Officer, as required under 44 CFR part 206 subpart M, who serves as the responsible individual for all matters related to the Hazard Mitigation Grant Program.

(d) *Administrative plan.* The State must have an approved administrative plan for the Hazard Mitigation Grant Program in conformance with § 206.437.

§ 206.434 Eligibility

(a) *Applicants.* The following are eligible to apply for the Hazard Mitigation Program Grant:

(1) State and local governments;

(2) Private non-profit organizations or institutions that own or operate a private non-profit facility as defined in § 206.221(e);

(3) Indian tribes or authorized tribal organizations and Alaska Native villages or organizations, but not Alaska native corporations with ownership vested in private individuals.

(b) *Minimum project criteria.* To be eligible for the Hazard Mitigation Grant Program, a project must:

(1) Be in conformance with the hazard mitigation plan developed as a requirement of section 409;

(2) Have a beneficial impact upon the designated disaster area, whether or not located in the designated area;

(3) Be in conformance with 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations;

(4) Solve a problem independently or constitute a functional portion of a solution where there is assurance that the project as a whole will be completed. Projects that merely identify or analyze hazards or problems are not eligible;

(5) Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster. The grantee must demonstrate this by documenting that the project:

(i) Addresses a problem that has been repetitive, or a problem that poses a significant risk to public health and safety if left unsolved,

(ii) Will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur. Both costs and benefits will be computed on a net present value basis,

(iii) Has been determined to be the most practical, effective, and environmentally sound alternative after consideration of a range of options,

(iv) Contributes, to the extent practicable, to a long-term solution to the problem it is intended to address,

(v) Considers long-term changes to the areas and entities it protects, and has manageable future maintenance and modification requirements.

(c) *Types of projects.* Projects may be of any nature that will result in protection to public or private property. Eligible projects include, but are not limited to:

(1) Structural hazard control or protection projects;

(2) Construction activities that will result in protection from hazards;

(3) Retrofitting of facilities;

(4) Acquisition or relocation;

(5) Development of State or local mitigation standards;

(6) Development of comprehensive hazard mitigation programs with implementation as an essential component;

(7) Development or improvement of warning systems.

(d) *Duplication of programs.* Section 404 funds cannot be used as a substitute or replacement to fund projects or programs that are available under other Federal authorities, except under limited circumstances in which there are extraordinary threats to lives, public health or safety or improved property.

(e) *Packaging of programs.* Section 404 funds may be packaged or used in combination with other Federal, State, local, or private funding sources when appropriate to develop a comprehensive mitigation solution, though section 404 funds cannot be used as a match for other Federal funds.

§ 206.435 Project identification and selection criteria.

(a) *Identification.* It is the State's responsibility to identify and select hazard mitigation projects. All funded projects must be consistent with the State's section 409 hazard mitigation plan. Hazard mitigation projects may be identified through the section 409 planning process, or through any other appropriate means. Procedures for the identification, funding, and management of mitigation projects shall be included in the State's administrative plan.

(b) *Selection.* The State will establish procedures and priorities for the selection of mitigation measures. At a minimum the criteria must be consistent with the criteria stated in § 206.434(b) and include:

(1) Measures that best fit within an overall plan for development and/or hazard mitigation in the community, disaster area, or State;

(2) Measures that, if not taken, will have a severe detrimental impact on the applicant, such as potential loss of life, loss of essential services, damage to critical facilities, or economic hardship on the community;

(3) Measures that have the greatest potential impact on reducing future disaster losses;

(c) *Other considerations.* In addition to the selection criteria noted above, consideration should be given to measures that are designed to accomplish multiple objectives including damage reduction, environmental enhancement, and economic recovery, when appropriate.

§ 206.436 Application procedures.

(a) *General.* This section describes the procedures to be used by the State in submitting an application for funding for hazard mitigation grants. Under the Hazard Mitigation Grant Program the State is the grantee and is responsible for processing subgrants to applicants in accordance with 44 CFR parts 13 and 206.

(b) *Governor's Authorized Representative.* The Governor's Authorized Representative serves as the grant administrator for all funds provided under the Hazard Mitigation Grant Program. The Governor's Authorized Representative's

responsibilities as they pertain to procedures outlined in this section include providing technical advice and assistance to eligible subgrantees, and ensuring that all potential applicants are aware of assistance available and submission of those documents necessary for grant award.

(c) *Letter of intent to participate.* Within 60 days of the disaster declaration, the State (Governor's Authorized Representative) will notify FEMA in writing of its intent to participate or not participate in the Hazard Mitigation Grant Program. States are also encouraged to submit a hazard mitigation application within this timeframe so that immediate post-disaster opportunities for hazard mitigation are not lost.

(d) *Hazard mitigation application.* Upon identification of mitigation measures, the State (Governor's Authorized Representative) will submit its section 404 Hazard Mitigation Application to the FEMA Regional Director. The Application will identify one or more mitigation measures for which funding is requested. The Application must include a Standard Form (SF) 424, Application for Federal Assistance, SF 424D, Assurances for Construction Programs if appropriate, and a narrative statement. The narrative statement will contain any pertinent project management information not included in the State's administrative plan for Hazard Mitigation. The narrative statement will also serve to identify the specific mitigation meausres for which funding is requested. Information required for each mitigation measure shall include the following:

(1) Name of the subgrantee, if any;

(2) State or local contact for the measure;

(3) Location of the project;

(4) Description of the measure;

(5) Cost estimate for the measure;

(6) Analysis of the measure's cost-effectiveness and substantial risk reduction, consistent with § 206.434(b);

(7) Work schedule;

(8) Justification for selection;

(9) Alternatives considered;

(10) Environmental information consistent with 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations;

(e) *Supplements.* The application may be amended as the State and subgrantees develop the section 409 hazard mitigation plan and continue to identify measures to be funded. Amendments to add or modify measures are made by submitting supplements to the application. All supplements to the application for the purpose of identifying new mitigation measures must be submitted to FEMA within 90 days of FEMA approval of the section 409 plan. The Regional Director may grant up to a 90 day extension to this deadline upon receipt of written justification from the State that the extension is warranted. The supplements shall contain all necessary information on the measure as described in paragraph (d) of this section.

(f) *FEMA approval.* The application and supplement(s) will be submitted to the FEMA Regional Director for approval. FEMA has final approval authority for funding of all projects.

(g) *Exceptions.* The following are exceptions to the above outlined procedures and time limitations.

(1) *Grant applications.* An Indian tribe or authorized tribal organization may submit a SF 424 directly to the Regional Director when assistance is authorized under the Act and a State is unable to assume the responsibilities prescribed in these regulations.

(2) *Time limitations.* The time limitation shown in paragraph (c) of this section may be extended by the Regional Director when justified and requested in writing by the Governor's Authorized Representative.

(Approved by the Office of Management and Budget under OMB Control Number 3067–0207.)

§ 206.437 State administrative plan.

(a) *General.* The State shall develop a plan for the administration of the Hazard Mitigation Grant Program.

(b) *Minimum criteria.* At a minimum, the State administrative plan must include the items listed below:

(1) Designation of the State agency will have responsibility for program administration;

(2) Identification of the State Hazard Mitigation Officer responsible for all matters related to the Hazard Mitigation Grant Program.

(3) Determination of staffing requirements and sources of staff necessary for administration of the program;

(4) Establishment of procedures to:

(i) Identify and notify potential applicants (subgrantees) of the availability of the program;

(ii) Ensure that potential applicants are provided information on the application process, program eligibility and key deadlines;

(iii) Determine applicant eligibility;

(iv) Conduct environmental and floodplain management reviews;

(v) Establish priorities for selection of mitigation projects;

(vi) Process requests for advances of funds and reimbursement;

(vii) Monitor and evaluate the progress and completion of the selected projects;

(viii) Review and approve cost overruns;

(ix) Process appeals;

(x) Provide technical assistance as required to subgrantee(s);

(xi) Comply with the administrative requirements of 44 CFR parts 13 and 206;

(xii) Comply with audit requirements of 44 CFR part 14;

(xiii) Provide quarterly progress reports to the Regional Director on approved projects.

(b) *Format.* The administrative plan is intended to be a brief but substantive plan documenting the State's process for the administration of the Hazard Mitigation Grant Program and management of the section 404 funds. This administrative plan should become a part of the State's overall emergency response or operations plan as a separate annex or chapter.

(c) *Approval.* The State must submit the administrative plan to the Regional Director for approval. Following each major disaster declaration, the State shall prepare any updates, amendments, or plan revisions required to meet current policy guidance or changes in the administration of the Hazard Mitigation Grant Program. Funds shall not be awarded until the State administrative plan is approved by the FEMA Regional Director.

(Approved by the Office of Management and Budget under OMB control number 3067–0208.)

§ 206.438 Project management.

(a) *General.* The State serving as grantee has primary responsibility for project management and accountability of funds as indicated in 44 CFR part 13. The State is responsible for ensuring that subgrantees meet all program and administrative requirements.

(b) *Cost overruns.* During the execution of work on an approved mitigation measure the Governor's Authorized Representative may find that actual project costs are exceeding the approved estimates. Cost overruns which can be met without additional Federal funds, or which can be met by offsetting cost underruns on other projects, need not be submitted to the Regional Director for approval, so long as the full scope of work on all affected projects can still be met. For cost overruns which exceed Federal obligated funds and which require additional Federal funds, the Governor's Authorized Representative shall evaluate each cost overrun and shall submit a request with a

recommendation to the Regional Director for a determination. The applicant's justification for additional costs and other pertinent material shall accompany the request. The Regional Director shall notify the Governor's Authorized Representative in writing of the determination and process a supplement, if necessary. All requests that are not justified shall be denied by the Governor's Authorized Representative. In no case will the total amount obligated to the State exceed the funding limits set forth in § 206.432(b). Any such problems or circumstances affecting project costs shall be identified through the quarterly progress reports required in paragraph (c) of this section.

(c) *Progress reports.* The grantee shall submit a quarterly progress report to FEMA indicating the status and completion date for each measure funded. Any problems or circumstances affecting completion dates, scope of work, or project costs which are expected to result in noncompliance with the approved grant conditions shall be described in the report.

(d) *Payment of claims.* The Governor's Authorized Representative shall make a claim to the Regional Director for reimbursement of allowable costs for each approved measure. In submitting such claims the Governor's Authorized Representative shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the mitigation measure is in compliance with the provisions of the FEMA-State Agreement. The Regional Director shall determine the eligible amount of reimbursement for each claim and approve payment. If a mitigation measure is not completed, and there is not adequate justification for noncompletion, no Federal funding will be provided for that measure.

(e) *Audit requirements.* Uniform audit requirements as set forth in 44 CFR part 14 apply to all grant assistance provided under this subpart. FEMA may elect to conduct a Federal audit on the disaster assistance grant or on any of the subgrants.

§ 206.439 Allowable costs.

(a) *General.* General policies for determining allowable costs are established in 44 CFR 13.22. Exceptions to those policies as allowed in 44 CFR 13.4 and 13.6 are explained below.

(b) *Eligible direct costs.* The eligible direct costs for administration and management of the program are divided into the following two categories.

(1) *Statutory administrative costs*—(i) *Grantee.* Pursuant to 406(f)(2) of the Stafford Act, an allowance will be provided to the State to cover the extraordinary costs incurred by the State for preparation of applications, quarterly reports, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses, but not including regular time for such employees. The allowance will be based on the following percentages of the total amount of assistance provided (Federal share) for all subgrantees in the State under section 404 of the Stafford Act:

(A) For the first $100,000 of total assistance provided (Federal share), three percent of such assistance.

(B) For the next $900,000, two percent of such assistance.

(C) For the next $4,000,000, one percent of such assistance.

(D) For assistance over $5,000,000, one-half percent of such assistance.

(ii) *Subgrantee.* Pursuant to section 406(f)(1) of the Stafford Act, necessary costs of requesting, obtaining, and administering Federal disaster assistance subgrants will be covered by an allowance which is based on the following percentages of total net eligible costs under section 404 of the Stafford Act, for an individual applicant (applicants in this context include State agencies):

(A) For the first $100,000 of net eligible costs, three percent of such costs.

(B) For the next $900,000, two percent of such costs.

(C) For the next $4,000,000, one percent of such costs.

(D) For those costs over $5,000,000, one-half percent of such costs.

(2) *State management costs*—(i) *Grantee.* Except for the items listed in paragraph (b)(1)(i) of this section, other administration costs shall be paid in accordance with 44 CFR 13.22. Costs of State personnel (regular time salaries only) assigned to administer the Hazard Mitigation Grant Program may be eligible when approved by the Regional Director. Such costs shall be shared in accordance with the cost share provisions of section 404 of the Act. For grantee administrative costs in the Disaster Field Office, the State shall submit a plan for the staffing of the Disaster Field Office within 5 days of the opening of the office. This staffing plan shall be in accordance with the administrative plan requirements of § 206.437. After the close of the Disaster Field Office, costs of State personnel (regular time salaries only) for continuing management of the hazard mitigation grants may be eligible when approved in advance by the Regional Director. The State shall submit a plan for such staffing in advance of the requirement.

(c) *Eligible indirect costs*—(1) *Grantee.* Indirect costs of administering the disaster program are eligible in accordance with the provisions of 44 CFR part 13 and OMB Circular A–87.

(2) *Subgrantee.* No indirect costs of a subgrantee are separately eligible because the percentage allowance in paragraph (b)(1)(ii) of this section necessary costs of requesting, obtaining and administering Federal assistance.

§ 206.440 Appeals.

(a) *Subgrantee.* The subgrantee may appeal any determination previously made related to Federal assistance for a subgrantee. The subgrantee's appeal shall be made in writing and submitted to the grantee within 60 days after receipt of a notice of the action which is being appealed. The appeal shall contain documented justification supporting the subgrantee's position.

(b) *Grantee.* Upon receipt of an appeal from a subgrantee, the grantee shall review the material submitted, make such additional investigations as necessary, and shall forward the appeal with a written recommendation to the Regional Director within 60 days.

(c) *Regional Director.* Upon receipt of an appeal, the Regional Director shall review the material submitted and make such additional investigations as deemed appropriate. Within 90 days following receipt of an appeal, the Regional Director shall notify the grantee, in writing, as to the disposition of the appeal or of the need for additional information. Within 90 days following the receipt of such additional information, the Regional Director shall notify the grantee, in writing, of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director will take appropriate implementing action.

(d) *Associate Director.* (1) If the Regional Director denies the appeal, the subgrantee may submit a second appeal to the Associate Director. Such appeals shall be made in writing, through the grantee and the Regional Director, and shall be submitted not later than 60 days after receipt of notice of the Regional Director's denial of the first appeal. The Associate Director shall render a determination on the subgrantee's appeal within 90 days following receipt of the appeal or shall make a request for additional information. Within 90 days following the receipt of such additional information, the Associate Director shall notify the grantee, in writing, of the disposition of the appeal. If the decision is to grant the appeal, the Regional

Director will be instructed to take appropriate implementing action.

(2) In appeals involving highly technical issues, the Associate Director, at his/her discretion, may ask an independent scientific or technical group or person with expertise in the subject matter of the appeal to review the appeal in order to obtain the best possible evaluation. In such cases, the 90 day time limit will run from the submission of the technical report.

(e) *Director.* (1) If the Associate Director denies the appeal, the subgrantee may submit an appeal to the Director of FEMA. Such appeals shall be made in writing, through the grantee and the Regional Director, and shall be submitted not later than 60 days after receipt of notice of the Associate Director's denial of the second appeal.

(2) The Director shall render a determination on the subgrantee's appeal within 90 days following receipt of the appeal or shall make a request for additional information if such is necessary. Within 90 days following the receipt of such additional information, the Director shall render a determination and notify the grantee, in writing, of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director will be instructed to take appropriate implementing action.

(3) In appeals involving highly technical issues, the Director may, at his/her discretion, submit the appeal to an independent scientific or technical person or group having expertise in the subject matter of the appeal for advice and recommendation. Before making the selection of this person or group, the Director may consult with the grantee and/or the subgrantee.

(4) The Director may also submit appeals which he/she receives to persons who are not associated with FEMA's Disaster Assistance Programs office for recommendations on the resolution of appeals.

(5) Within 60 days after the submission of a recommendation made pursuant to paragraph (d) (3) and (4) of this section, the Director shall render a determination and notify the grantee of the disposition of the appeal.

Dated: August 17, 1990.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 90-20225 Filed 8-29-90; 8:45 am]

BILLING CODE 6718-02-M

federal register

Thursday
August 30, 1990

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Airworthiness Standards; Emergency Exit Provisions for Normal, Utility, Acrobatic and Commuter Category Airplanes; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26324; Notice 90-20]

RIN 2120-AD33

Airworthiness Standards; Emergency Exit Provisions for Normal, Utility Acrobatic and Commuter Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend emergency egress requirements of the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. These proposed rules are necessary to up-grade the requirements for emergency exit provisions of commuter airplanes with the corresponding requirements for similar sized transport category airplanes. These proposals provide specific requirements for flight crew emergency exits, emergency exit ditching provisions, and the size requirement of the passenger entry door for commuter category airplanes as well as alternative emergency exit requirements applicable to commuter category airplanes.

DATES: Comments must be received on or before February 26, 1991.

ADDRESSES: Comments on this notice may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 26324, 800 Independence Avenue, SW., Washington, DC 20591, or delivered in triplicate to: Room 915-G, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked Docket No. 26324. Comments may be examined in room 916 between 8:30 a.m. and 5 p.m. on weekdays, except on Federal holidays.

In addition, the FAA is maintaining an information docket of comments in the Office of Assistant Chief Counsel, ACE-7, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the information docket may be inspected in the Office of Assistant Chief Counsel, room 1558, weekdays, except Federal holidays, between the hours of 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Norman R. Vetter, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals in this notice are invited. Substantive comments should be accompanied by cost estimates. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. Commenters wishing the FAA to acknowledge receipt of comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26324." The postcard will be date stamped and returned to the commenter. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Inquiry Center (APA-200), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number or this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Notice 78-14, published in the **Federal Register** on October 10, 1978, (43 FR 46734), proposed interim airworthiness requirements for increased takeoff gross weight and passenger seating capacity of certain existing small, propeller-driven, multiengine airplanes. That rulemaking action resulted from a petition for rulemaking from the FAA/Industry Commuter Aircraft Weight Committee to allow certain small airplanes to be type certificated to maximum takeoff weights greater than 12,500 pounds without complying with the transport category type certification requirements of part 25. Special Federal Aviation Regulations (SFAR) 41 (44 FR 53723, September 17, 1979), which became effective October 17, 1979, resulted from Notice 78-14.

With the withdrawal of proposed Part 24, type certification standards for light transport category airplanes, SFAR 41 filled the gap between part 23 and part 25 type certification standards. Section 5(e)(g) of SFAR 41 provided specific requirements for passenger entry doors and additional emergency exits. That section required, in part, that the passenger entry door qualify as a floor level emergency exit. For airplanes with a total seating capacity of 15 or fewer, that section required, in addition to the passenger entry door, an emergency exit as defined in § 23.807(b), on each side of the cabin. For airplanes with a total passenger seating capacity of 16 through 23, that section required three emergency exits as defined in § 23.807(b), with one on the same side as the door and two on the side opposite the door. The interim nature of SFAR 41 was reflected in the time limits imposed on its applicability. Those limits required that an application for an aircraft supplemental or amended type certificate under SFAR 41 be filed within two years after the effective date of the SFAR, and restricted production of any aircraft certificated thereunder to ten years for airplanes certificated with maximum takeoff gross weights in excess of 12,500 pounds. The ten-year period was specified to allow for development of new standards for that type of airplane and to provide sufficient time for airplane manufacturers to amortize the cost of modifying existing designs to comply with SFAR 41; however, no limitation was established for the operational life of airplanes certificated under SFAR 41.

Special Federal Aviation Regulations (SFAR) 41 prescribed additional airworthiness standards applicable to existing small reciprocating and turbopropeller-powered, multiengine airplanes. That regulation allowed type and airworthiness recertification of those airplanes with weights in excess of 12,500 pounds maximum takeoff weight, or with an increase in the number of passengers, or both; but, it imposed a design restriction that limited the maximum zero fuel weight to 12,500

pounds. The regulation was amended by SFAR 41A (45 FR 25047, April 14, 1980), for clarification and editorial corrections. Special Federal Aviation Regulations (SFAR) 41B (45 FR 80973, December 8, 1990) was a further amendment of the regulation to specify additional requirements for optional compliance with the International Civil Aviation Organization (ICAO), Annex 8, part III, airworthiness standards, which apply to airplanes weighing 5,700 kg (12,566 lbs) or more. The expiration date of SFAR 41 was October 17, 1981.

After the expiration of SFAR 41B on October 17, 1981, and termination of the Light Transport Airplane Airworthiness Review, the FAA issued SFAR 41C (47 FR 35153, August 12, 1982), effective September 13, 1982. The amendments of SFAR 41C: (1) Eliminated the 12,500 pound maximum zero fuel weight restriction; (2) limited the number of passenger seats to 19 for those small propeller-driven, multiengine airplanes that operate at a certificated gross takeoff weight in excess of 12,500 pounds; and (3) relaxed the landing distance determination requirement, making it consistent with the similar requirements in part 23 and part 25. The wording of section 5(e)(g) was amended by SFAR 41C in part to require that airplanes with a total passenger seating capacity of 16 through 19, be designed with three emergency exits, as defined in § 23.807(b), with one of the same side as the door and two on the side opposite the door.

On November 15, 1983, Notice 83–17 (48 FR 52010) proposed to amend parts 21, 23, 36, 91 and 135 of the Federal Aviation Regulations (FAR) to adopt certification procedures, airworthiness and noise standards, and operating rules for a new commuter category for airplanes type certificated to the FAR. That notice, in part, proposed to amend § 23.807 to require the same numbers of emergency exists in commuter category airplanes as were required for airplanes meeting the SFAR 41C requirements.

On December 12, 1986, Notice 86–19, titled "Small Airplane Airworthiness Review Program Notice No. 1," was published in the **Federal Register** (51 FR 44878). That notice proposed new requirements that would enhance cabin safety in normal, utility, and acrobatic category airplanes. Since final rules for commuter category airplanes had not been adopted at the time Notice 86–19 was published, that notice did not address commuter category airplanes. In Notice 86–19, the FAA referred to the pending rulemaking activities of Notice 83–17 and noted that additional rulemaking action would be initiated to enhance the cabin safety of commuter category airplanes if the proposal in Notice 83–17 were adopted.

As a result of Notice 83–17, amendment 23–34 to part 23 of the FAR was published in the **Federal Register** (52 FR 1806, January 15, 1987) and specified minimum airworthiness standards for a new commuter category. That final rule, in part, amended § 23.807 by adding a new paragraph (d) that required: That commuter category airplanes with a seating capacity of 15 or fewer must provide an emergency exit on such side of the cabin in addition to the entry door; and that for commuter category airplanes with a total seating capacity of 16 through 19 three emergency exits, with one on the same side as the passenger entry door and two on the opposite side, must be provided. Those requirements were substantively identical to requirements in SFAR 41C.

As a result of Notice 86–19, amendment 23–36 to part 23 of the FAR was published in the **Federal Register** (53 FR 30802, August 15, 1988) and provided upgraded standards for cabin safety and occupant protection for airplanes type certificated to the airworthiness standards of part 23.

Since final action to incorporate commuter category airplane airworthiness standards into the FAR had not been completed at the time Notice 86–19 was published, requirements for commuter category airplanes were not specifically addressed in the proposals of that notice; however, the proposals in Notice 86–19 were formulated to be compatible with the commuter category airplane cabin safety standards that were adopted by amendment 23–34, with the exception of the requirements for dynamic testing of seats and the requirements for shoulder harnesses at the passenger seats. The cabin safety standards adopted by amendment 23–36 were formulated considering both the public comments to Notice 86–19 and the changes to part 23 adopted by amendment 23–34. The requirements for the number of emergency exits in commuter category airplanes in paragraphs (1) and (2) of § 23.807(d), as adopted by amendment 23–34, were not changed by amendment 23–36; however, the requirements in paragraph (d)(3) of § 23.807, as adopted by amendment 23–34, were moved to a new paragraph (b) of § 23.811 by amendment 23–36, and the requirements of paragraph (d)(4) of § 23.807, as adopted by amendment 23–34, were moved to a new § 23.813 by amendment 23–36.

Past FAA policy has clarified the intent of section 5(e)(g) of SFAR 41. In that policy, the FAA stated that the intent of section 5(e)(g) of SFAR 41 was to require an additional emergency exit (above the requirements for normal category airplanes) for airplanes with a total seating capacity, including pilot seats, of 12 to 15. Therefore, when an airplane with a seating capacity of 11 of fewer, including pilot seats, was certificated to the airworthiness standards of SFAR 41, the emergency exit requirements for normal category airplanes in § 23.807 were applicable. Since the adoption of the emergency exit standards of § 23.807(d)(1)(i) of amendment 23–34, the number of exits required of commuter category airplanes with cabin seating of fewer than 9 passengers has been reconsidered by the FAA. Proposed § 23.807(d)(1) is intended to apply to any commuter category airplane, including those airplanes with a total passenger seating of 9 or fewer. This provides an increase in the cabin safety required of commuter category airplanes over that required of similar sized normal category airplanes.

Since incorporation of amendment 23–34 into part 23, several airplane manufacturers or modifiers have petitioned the FAA for exemption from either paragraph (i) or (ii) of § 23.807(d)(1). Those standards require that: (1) Commuter category airplanes with a total passenger seating capacity of 15 or fewer have an emergency exit on each side of the cabin in addition to the passenger entry door; and (2) commuter category airplanes with a total passenger seating capacity of 16 through 19 have three emergency exits in addition to the passenger entry door, with one emergency exit on the same side as the door and two exits on the opposite side. Frequently, those petitions have noted the differences in the requirements of § 23.807(d)(1) and the emergency exit requirements for similarly sized transport category airplanes. Section 25.807(c)(1) requires, in part, that transport category airplanes with a passenger seating capacity of 19 passengers or fewer provide at least one emergency exit on each side of the fuselage and one of the emergency exits may be considered the main entry door when it meets the requirements of §§ 25.807(c)(1) and 25.783.

The petitioners, in general, have proposed to provide the number of emergency exits required by § 25.807(c)(1) for transport category airplanes instead of complying with the requirements of § 23.807(d)(1). In support of these petitions, they point out that commuter category airplanes have

compensating features that include a variety of other cabin safety provisions (e.g., larger exits, wider aisles, exit marking, or emergency lighting), which are currently required, in most cases, for transport category airplanes. In response, the FAA has contended that the number of emergency exits provided in an airplane design is only one aspect of the overall cabin safety provided by the design. In the interest of standardization, the FAA initiated a project to amend part 23 to provide that, as an alternate to compliance with the requirements of § 23.807(d)(1), commuter category airplanes may be designed with the number of emergency exits required for transport category airplanes in § 25.807(c)(1).

In support of this activity, the FAA conducted a review of the cabin safety standards required for commuter category airplanes in part 23 and the cabin safety provisions required for small transport category airplanes in part 25. That review showed that the requirements of part 25 specify an alternate emergency exit configuration and include certain standards such as, emergency lighting, greater aisle width, additional exit markings, etc., not required of commuter category airplanes, that aid the occupants of transport category airplanes in locating, reaching, and passing through the emergency exits. Those additional airworthiness requirements are important factors for minimizing the time required for occupants to safely egress the airplane through a limited number of exits. With this notice, the FAA proposes, as an alternate, that commuter category airplanes may comply with emergency exit requirements and other cabin safety standards that are substantively the same as those for similarly sized transport category airplanes.

It is also proposed to amend the emergency exit requirements to provide for the following: (1) Additional emergency landing provisions to give the airplane occupants every reasonable chance of escaping serious injury in a survivable crash landing; (2) emergency exit size and step up/step down limitations to ensure that the airplane occupants can readily egress through the exits; (3) emergency exit marking provisions to ensure that the exits can be easily identified in an emergency; (4) emergency lighting provisions to ensure adequate lighting for rapid egress from the airplane; and (5) wider aisle widths and additional emergency exit access provisions to ensure that the airplane occupants have a path to the available emergency exits.

Although an ultimate load factor corresponding to downward static inertia loads for commuter category airplanes is not included in the emergency landing conditions currently defined in § 23.561(b)(2), for commuter category airplanes, a downward ultimate load factor has been specified as an additional airworthiness requirement for exemption from the required number of emergency exits in § 23.807(d)(1). A downward ultimate load factor is specified in § 25.561(b)(3) to be considered when evaluating the occupant protection provided by transport category airplanes during an emergency landing. Those requirements, in part, ensure a minimum download retention strength for the cabin structures so that those structures will not injure occupants or block aisles or exits during a survivable crash landing. This notice proposes to add a downward ultimate load factor to the emergency landing conditions of § 23.561(b)(2) that would be applicable to commuter category airplanes when certification to the emergency exit provisions of proposed § 23.807(d)(4) is requested.

For standardization between the airworthiness requirements for commuter category and transport category airplanes, and to simplify the alternate emergency exit standards proposed in this notice, the FAA proposes to move certain requirements of § 23.807(d)(1) to a new paragraph (f) in § 23.783 and proposes a new paragraph (d)(3) in § 23.807. The standards in proposed § 23.783(f) require that each passenger entry door qualify as a floor level emergency exit and provide requirements for integral stairs when installed at a passenger entry door. The standards in proposed § 23.807(d)(3) require that each emergency exit that is not a floor level exit either be located over the wing or, if not less than six feet from the ground, have an acceptable means to assist the occupants in descending to the ground. There are no substantive differences between the requirements in proposed § 23.783(f) or in proposed § 23.807(d)(3) and those requirements proposed to be removed from § 23.807(d)(1).

In addition to requirements for the number of emergency exits to be provided in the design, § 25.807 provides other standards for the doors and emergency exits of transport category airplanes. In some cases, similar standards were provided as additional airworthiness requirements for granting exemptions from the number of emergency exits required in § 23.807(d)(1). Section 25.783(h) requires, in part, that each passenger entry door in the side of the fuselage of a transport category airplane qualify as a Type A, Type I, or Type II passenger emergency exit, which are defined in § 25.807(a) with the Type A being the largest of the three exits. The Type I exit must have a rectangular opening of not less than 24 inches wide by 48 inches high, with corner radii not greater than one-third the width of the exit. Also a Type I exit must be a floor level exit. A Type II exit must have a rectangular opening of not less than 20 inches wide by 44 inches high, with corner radii not greater than one-third the width of the exit. Type II exist must be floor level exist unless located over the wing, in which case they may not have a step up inside the airplane of more than 10 inches nor a step down outside the airplane of more than 17 inches. The current airworthiness requirements for the commuter category airplanes under part 23 do not have a size and shape requirement for the passenger entry door. The commuter category requirements for emergency exits were developed from the SFAR 41 requirements, which are traceable to those required by SFAR 23. Special Federal Aviation Regulations (SFAR) 23 was developed to permit the use of airplanes certificated to part 23 in part 135 operations and the size of the door was not specified. The FAA is proposing a size and shape requirement for the passenger entry door for commuter category airplanes in § 23.783(f). The FAA conducted a survey of the size of the passenger entry doors for airplanes whose type certification basis was SFAR 41, or part 23 with the commuter category requirements incorporated by amendment 23–34. The passenger entry door for those airplanes surveyed exceeded the dimensional requirements of the Type I exit. Although the current airworthiness requirements for commuter airplanes do not specify a size for passenger entry doors, manufacturers of these types of airplanes are exceeding the size of a Type I door. This notice proposes to add new requirements for the passenger entry doors of commuter category airplanes that would require they be, as a minimum, the same size as transport category airplane Type I emergency exits. The proposed requirements would be applicable to any commuter category airplane.

Although § 25.807(c)(1) allows small transport category airplanes to be configured with only one emergency exit on each side of the fuselage, the rule requires those emergency exits to qualify as either Type III or Type IV

exits depending on the number of passenger seats. Section 25.807(a)(3) specifies that a Type III emergency exit must have a rectangular opening of not less than 20 inches wide by 36 inches high with corner radii not greater than one-third the width of the exit, and with a step up inside the airplane of not more than 20 inches. If the Type III exit is located over the wing, § 25.807(a)(3) requires that the step down outside the airplane not exceed 27 inches. Section 25.807(a)(4) specifies that a Type IV exit must have a rectangular opening located over the wing that is not less than 19 inches wide by 26 inches high, with corner radii not greater than one-third the width of the exit, with a step up inside the airplane of not more than 29 inches and a step down outside the airplane of not more than 36 inches. Emergency exits in commuter category airplanes currently comply with § 23.807(b), which requires, in part, that the emergency exits provide a clear and unobstructed opening large enough to admit a 19- by 26-inch ellipse. There are currently no specific step up or step down requirements for the emergency exits of commuter category airplanes. Since the standards for transport category airplane Type III or Type IV emergency exits go beyond the current requirements for the emergency exits of commuter category airplanes, this notice proposes new requirements for the step up, step down, and size of the emergency exits in commuter category airplanes to be applicable when certification to the emergency exit provisions of proposed § 23.807(d)(4) is requested. These proposed standards ensure that the emergency exits in those commuter category airplanes provide an egress capability similar to that provided by Type III or Type IV emergency exits in transport category airplanes.

This notice proposes new requirements for emergency exit ditching provisions for multiengine airplanes that are type certificated to the airworthiness standards of part 23. The FAA anticipates an increase in the use of commuter category airplanes and multiengine normal category airplanes in over water operation. Airports developed near large bodies of water increase the number of departures and approaches that are conducted over water. Since ditching provisions may be critical for occupant egress following an emergency landing in water, the standards in proposed § 23.807(e) ensure the availability of exists for emergency egress following an emergency landing in water.

A new § 23.811, titled "Emergency exit marking," was added to part 23 with amendment 23–36. Section 23.811(a) provides standards requiring that each emergency exit and external door in the passenger compartment be externally marked and readily identifiable from outside the airplane by a conspicuous visual identification scheme and a permanent decal or placard that shows the means of opening the emergency exit, including special instructions, if applicable. Those standards are applicable to all categories of airplanes where the airworthiness standards of part 23 apply. Also, the emergency exit marking requirements of § 23.807(d)(3) in amendment 23–34, which are unique to commuter category airplanes, were moved to § 23.811(b) in amendment 23–36. The additional standards, applicable to commuter category airplanes, require that the external doors and emergency exits be internally marked with the word "exit" by a sign that has white letters one inch high on a red background two inches high, be self-illuminated or independently electrically illuminated, and have a minimum brightness of at least 160 microlamberts.

The emergency exit marking standards for transport category airplanes, as stated in § 25.811, have specific requirements that go beyond the current commuter category airplane emergency exit marking standards. Therefore, this notice proposes to add a new § 23.811(c) providing additional airworthiness requirements for emergency exit marking that would be applicable when certification to the emergency exit provisions of § 23.807(d)(4) is requested. The standards in proposed § 23.811(c)(1), which are similar to the requirements of § 25.811(a), ensure conspicuous marking for each emergency exit, its means of access and its means of opening for rapid identification and operation of the exits in an emergency condition. The standards in proposed § 23.811(c)(2), which are similar to the requirements of § 25.811(b), ensure that the airplane occupants can readily identify and locate the emergency exits on the opposite side of the cabin from where they are seated. The standards in proposed § 23.811(c)(3), which are similar to the requirements of § 25.811(c), ensure that the airplane occupants can locate the emergency exits when the cabin is filled with dense smoke. The standards in proposed § 23.811(c)(4), which are similar to the requirements of § 25.811(e)(1), ensure that the operating handle and the instructions for opening the emergency exits are shown by a marking that is readable from a distance of 30 inches. The standards in proposed § 23.811(c)(5), which are similar to the requirements of § 25.811(e)(2), ensure that there is sufficient lighting to allow identification of the passenger entry door operating handle. The standards in proposed § 23.811(c)(6), which are similar to the requirements of § 25.811(e)(4), ensure the ease of access and operation of a passenger entry door with a locking mechanism that is released by a rotary motion of the handle. The standards in proposed § 23.811(c)(7), which are similar to paragraphs (1) and (2) of § 25.811(f), ensure that the emergency exits are externally marked so that they can be readily identified in conditions of low lighting or poor visibility. These proposed requirements would result in emergency exits that are easier to locate and open in adverse conditions.

This notice proposes a new § 23.812, titled "Emergency lighting," that provides minimum standards for emergency lighting systems to be applicable when certification to the emergency exit provisions of proposed § 23.807(d)(4) is requested. These proposed standards are intended to ensure that there is adequate lighting for the airplane occupants to reach, operate, and egress through the entry door or the emergency exits in emergency situations, in darkness, or with smoke in the cabin, when the normal interior lighting has been rendered inoperative. Section 25.812, in part, provides standards for interior emergency lighting of transport category airplanes. Other emergency lighting requirements have been specified as additional airworthiness requirements for commuter category airplanes when exemptions to the emergency exit requirements of either paragraph (i) or (ii) of § 23.807(d)(1) were granted. The proposed emergency lighting standards in this notice were developed with consideration for: (1) The emergency lighting standards for transport category airplanes, as stated in § 25.812; (2) the additional airworthiness requirements applied to commuter category airplanes when exemptions to the requirements of either paragraph (i) or (ii) of § 23.807(d)(1) were granted; and (3) the need to ensure that the ability to egress a commuter category airplane is maintained when the number of emergency exits provided in the airplane design is fewer than the emergency exit provisions required by either paragraph (i) or (ii) of § 23.807(d)(1).

Proposed § 23.812(a) provides requirements similar to those in

§ 25.812(a), for transport airplanes, except for minor editorial differences. These proposed standards require an emergency lighting system that is independent of the main cabin lighting system. Proposed § 23.812(b) provides requirements similar to those in § 25.812(f)(2) for transport category airplanes. These proposed standards require a warning light in the cockpit to warn the crew when power is on in the airplane the emergency lighting control device is not armed. Paragraphs (c) and (d) of proposed § 23.812 provide emergency lighting requirements similar to those for transport airplanes in paragraphs (1) and (3) of § 25.812(f). Proposed § 23.812(c) requires that the emergency lights be operable from the cockpit as well as by automatic activation, and that the cockpit control device have an "on," "off," and "armed" position so that, when armed in the cockpit, the lights will activate automatically under certain conditions; e.g., when normal electrical power is lost. Proposed § 23.812(d) provides requirements for a means to safeguard against inadvertent operation of the control device from the "armed" or "on" positions.

Proposed § 23.812(e) states when the emergency lighting system must be capable of being armed or activated. Proposed § 23.812(f) states specific conditions where the emergency lighting must automatically light and remain lighted. Proposed § 23.812(g) requires that the emergency lighting system be capable of being turned off and reset by the flight crew after automatic activation. These proposed standards are derived from additional airworthiness requirements that were applied in specific cases where exemptions to § 23.812(d)(1)(ii) were granted.

Proposed § 23.812(h) requires minimum illumination standards for the emergency lighting systems. Proposed § 23.812(h)(1) requires that the emergency lighting system include illuminated exit marking and locating signs, including those required in § 23.811(b) of this part. These proposed standards are similar to the standards for transport category airplanes in § 23.812(a)(1). Proposed § 23.812(h)(2) requires specific minimum illumination requirements for the emergency light system and are similar to the requirements in § 25.812(c) for transport category airplanes. Proposed § 23.812(h)(3) states standards for floor proximity emergency escape path marking that are based on similar requirements for transport category airlines in § 25.812(e). All these proposed emergency lighting system standards are intended to ensure that adequate illumination is provided to the occupants of commuter category airplanes having a reduced number of emergency exits so that those occupants can rapidly locate and egress from the airplane exits in darkness or other situations where normal visibility is reduced.

Proposed § 23.812(i) requires that the emergency lighting system have an adequate energy supply to provide illumination for 10 minutes after activation. These proposed standards are based on similar requirements for transport category airplanes in § 23.812(i). Proposed § 23.812(j) requires specific standards for rechargeable batteries and the charging circuit of the emergency lighting system. These proposed standards are based on similar requirements for transport category airplanes in § 23.812(j). Proposed § 23.812(k) requires that the emergency lighting system continue to operate after being subjected to specific load conditions related to the emergency landing ultimate static load factors. These proposed standards are based on related requirements for transport category airplanes in § 23.812(k). Proposed § 23.812(l) requires minimum standards for continued operation of the emergency lighting system. These proposed standards are based on the transport category airplane standards in § 25.812(l).

This notice also proposes to amend § 23.803 so that only the emergency lighting required by § 23.812 may be used to provide cabin interior illumination during the evacuation demonstrations required for commuter category airplanes when certification to the provisions of proposed § 23.807(d)(4) is requested. Similar provisions are required for the evacuation demonstration of a transport category airplane in § 25.803(c)(4).

Section 23.813 was adopted in the FAR with amendment 23-36 and provides minimum access requirements for window-type emergency exits in commuter category airplanes. Those requirements were stated in § 23.807(d)(4) prior to amendment 23-36. This notice proposes additional emergency exit access standards to be applicable when certification to the emergency exit provisions of proposed § 23.807(d)(4) is requested.

Proposed § 23.813(b)(1) specifies a minimum width of unobstructed passageways between the aisle and the passenger entry door. The 20-inch passageway width is based on similar requirements in § 23.813(a) for the passageways from the aisles to either Type I or Type II emergency exits of transport category airplanes. Proposed § 23.813(b)(2) requires that the space next to the entry door be large enough to allow assistance in the evacuation of passengers without reducing the unobstructed width of the passageway below 20 inches. This proposed rule for passageway clearance is based on similar requirements for transport airplanes in § 25.813(b). Paragraphs (3), (4), and (5) of proposed § 23.813(b) provide standards for passageways, partitions, and doorways associated with the passenger compartments. These proposed rules are based on similar requirements for transport category airplanes in paragraphs (d), (e), and (f) of § 23.813, and they are intended to ensure that any partitions or doorways within the passenger compartment will not hinder occupant access to the exits in emergency situations.

Specific aisle width requirements for commuter category airplanes were adopted in part 23 by amendment 23-34. These standards are substantively the same as the requirements of SFAR 41C and require that the width of the main passenger aisle, at any point between the seats of 10 to 19 passenger commuter category airplanes, be at least 9 inches at any position less than 25 inches from the cabin floor and 15 inches at any position that is 25 inches or greater from the cabin floor. This notice proposes increased standards by requiring main passenger aisle widths that are consistent with those required by part 25 when certification to the emergency exit provisions of proposed § 23.807(d)(4) is requested. These proposed standards are based on the aisle width requirements for transport category airplane requirements in 25.815, and are intended to provide additional aisle space to reduce the possibility of aisle blocking effects of structural deformation during a crash impact, and to ensure that the passengers can reach an exit rapidly in an emergency situation.

This notice, as proposed, would provide emergency evacuation capability for commuter category airplane occupants similar to that provided by existing commuter category airplane emergency exit standards. A major consideration in the analysis was the possibility that one or more of the emergency exits could be inaccessible or unopenable following crash impact. Therefore, this notice proposes rules that allow a commuter category airplane to be certificated with only one emergency exit, in addition to the passenger entry door, only when the

required additional cabin safety features specified in proposed § 23.807(d)(4) are provided.

In this notice, the FAA is addressing emergency exits for the flight crew members by proposing a new § 23.805, titled "Flight crew emergency exits." The proposed standards are intended to ensure that emergency exits are readily available to crewmembers when the airplane is configured in a manner that makes the passenger emergency exits inaccessible to the crew in emergency landing situations. The FAA is aware of situations when special emergency exits were required to be added to specific normal category or commuter category sized airplane designs where the cabin interiors were configured with cargo nets, or other barriers, that blocked crewmember access to the passenger emergency exits. Although § 135.87(c)(7) requires at least one emergency or regular exit to be available for crew egress in certain airplanes used in cargo only operations, no such requirements currently exist in the airworthiness standards of part 23. The FAA has identified the need for crew emergency exit standards in part 23.

The airworthiness standards in proposed § 23.805 are particularly important for the cabin safety provided to the crewmembers of airplanes configured to haul cargo only. In addition to the cargo only configurations, there are other interior arrangements where a partition separates the crew compartment from the passenger cabin area. In emergency landing situations, those partitions may become a barrier to crew access to the passenger emergency exits. For those configurations, separate crew emergency exits are needed to provide a means for the crew to exit the airplane. The airworthiness standards of proposed § 23.805 apply to those airplanes with cabin interior arrangements where the proximity of the passenger emergency exits to the flight crew areas do not provide convenient and readily accessible means of evacuation for the flight crew.

The requirements of proposed § 23.805 are similar to the airworthiness standards of § 25.895, which are applicable to transport category airplanes. The proposed standards require either one emergency exit on each side of the airplane, or a top hatch, in the flight crew compartment when the passenger emergency exits are not readily accessible to the crew. The proposed standards require that each of the crew emergency exits be sized and located to allow rapid evacuation of the crew and have dimensions of at least a 19- by 20-inch unobstructed rectangle. Since normal category airplanes, as well as commuter category airplanes, can be configured with partitions or cargo restraints that block the crew access to the passenger emergency exits, proposed § 23.805 would be applicable to any part 23 airplane that requires flight crew emergency exits to ensure rapid egress of the crew in emergency conditions.

Regulatory Evaluation Summary

Introduction

This section summarizes a full regulatory evaluation of the subject proposed rule prepared by the FAA, which provides more detailed estimates of the economic consequences of this regulatory action. The full evaluation has been placed in the docket; it quantifies, to the extent practicable, estimated costs to the private sector, consumers, Federal, state, and local governments, as well as anticipated benefits and impacts.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society for the regulatory change outweigh the potential costs. The order also requires the preparation of a regulatory impact analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this proposed rule is not "major" as defined in the executive order; therefore, a full regulatory analysis, which includes the identification and evaluation of cost reducing alternatives to the rule, has not been prepared. Instead, the agency has prepared a more concise document, termed a "regulatory evaluation," which analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a trade impact assessment, and a regulatory flexibility determination required by the Regulatory Flexibility Act of 1980.

Flight Crew Exists

The FAA has determined that few aircraft would likely be impacted by this part of the proposed rule. There is presently only one cargo-carrying aircraft model which has an interior configuration that would require the additional cockpit exits. The FAA assumes that one similar type model will be certificated within two years following the effective date of a final rule (presumed to be year-end 1991) and that 10 aircraft with the additional exits will be produced annually between 1994 and 2008. The FAA estimates that the additional exits would cost $7,000 per aircraft. Increased fuel cost resulting from the added weight of the exit doors is estimated to be $200 per aircraft per year. Thus, for 10 aircraft produced annually during the 1994–2008 period, the present value costs (in 1990) attributable to the additional exits equals $471,800 in 1990 dollars.

This section of the proposed rule would be cost-beneficial if fatalities were prevented in the case of a controlled crash landing where the crewmembers would be unable to escape from an otherwise available exit that was blocked by cargo or a cargo screen. The cockpit exits would then be the only escape route. Historical accident data do not indicate that crewmember fatalities have occurred as a result of inability to egress cargo-laden aircraft in otherwise survivable accidents. However, such situations could occur. The additional cockpit exits would be cost-beneficial if only 1 fatality were prevented over the 15 year operating lives of the part 23 aircraft certificated pursuant to the new requirements. For the purpose of quantifying benefits, the FAA currently uses a value of $1,500,000 to satistically represent a human fatality avoided (in accordance with guidelines issued by the Office of the Secretary of Transportation dated June 22, 1990). Assuming the fatality has an equal chance of occurring in any year over the period, the present value of this postulated benefit would be $571,440 in 1990.

Emergency Ditching Requirements

There are 2 part 23 aircraft models currently operating that do not include the type of exits that would meet the ditching requirements of the subject proposed rule. For purposes of this analysis, the FAA assumes that 2 similar models will be certified within 2 years following the effective date of a final rule and that 50 aircraft with the modified exits will be produced each year over the 15 year design life (1994–2008). The FAA estimates the additional cost of the modified emergency exits to be $5,000 per aircraft, or $250,000 for 50 aircraft produced each year. Incremental production costs total $3,750,000 in 1990 dollars over the 15 year period; present value costs equal $1,428,600 in 1990.

Historical accident data do not indicate that any fatalities have occurred as a result of passengers or crewmembers not being able to exit a part 23 aircraft after a controlled landing in water. However, such an occurrence is a possibility. The modified emergency exits would be cost-beneficial if 3 fatalities were prevented over the operating lives of the aircraft certified and produced pursuant to the proposed rule; the present value (in 1990) of this postulated benefit is $1,714,300 in 1990 dollars.

Remaining Provisions of Proposed Rule

With the exception of the provisions related to cockpit exists and emergency ditching, the proposed rule changes would not result in additional costs to manufacturers of commuter aircraft certificated under part 23. Most of the proposed changes would provide manufacturers of certain commuter category airplanes with a choice of either:

(1) Building their airplanes to current part 23 cabin safety standards that require two exits (in addition to the passenger entry door) for airplanes with a total passenger seating capacity of 15 or fewer, or three exits (in addition to the passenger entry door) for airplanes with a total passenger seating capacity of 16 to 19; or

(2) Building their airplanes to proposed part 23 standards that mirror the current requirements for part 25 small transport category airplanes requiring only one exit (in addition to the passenger entry door) for airplanes with a passenger seating capacity of 19 or fewer, and also requiring many other cabin safety improvements that are not currently demanded of part 23 commuter aircraft.

The FAA assumes that if a manufacturer chooses the second option, it would do so because it believes the option either represents the least expensive alternative, or because it expects to gain some other net benefit. An additional benefit of the proposal is that it would provide an element of consistency in the cabin safety requirements of commuter category and small transport category aircraft of similar passenger capacities.

The most important economic aspect of this proposal, however, concerns the difference, if any, in overall safety associated with the current part 23 cabin safety standards as compared to the proposed part 23 standards that mirror those currently existing for part 25 aircraft. Although all commuter category and small transport category airplanes must demonstrate that they can be evacuated in 90 seconds before they can be certified as airworthy, no information is available as to whether one category of the airplane can be evacuated faster than the other. Therefore, no increase or decrease in passenger safety can be associated with an airplane with four emergency exits, as opposed to an airplane of similar seating capacity with two larger and more accessible exits, wider aisles, better emergency lighting, etc.

International Trade Impact Analysis

The proposal would have little or no impact on trade for both U.S. firms doing business overseas and foreign firms doing business in the United States. The proposal would result in a minimal increase in costs for domestic and foreign manufacturers who sell in the United States. These cost increases could be offset somewhat by small reductions in costs for foreign and domestic manufacturers who choose to meet the optional airworthiness standards. However, no major economic impact is anticipated and no nation is expected to gain a competitive advantage.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities."

The FAA size threshold for a determination of a small entity for aircraft manufacturers is 75 employees; that is, an aircraft manufacturer with more than 75 employees is not considered to be a small entity. A substantial number of small entities, as defined by the FAA, means a number that is not fewer than eleven and that is more than one-third of the small entities subject to the rule. There are fewer than eleven small airplane manufacturers that will be affected by this proposal, and, therefore, this proposed change does not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulations proposed in this notice would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

The regulations proposed in this notice would increase standardization between commuter category airplanes and similar size transport category airplanes by providing alternative emergency exit requirements applicable to commuter category airplanes. The FAA has determined that this document (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and (3) in addition, I certify that, under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 14 CFR Part 23

Aircraft, Air transportation, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend part 23 of the Federal Aviation Regulations (14 CFR part 23), as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES.

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1426, 1429, 1430; 49 U.S.C. 106(g).

2. Section 23.561 is amended by adding a new paragraph (b)(2)(iv) to read as follows:

§ 23.561 General.

* * * * *

(b) * * *

(2) * * *

(iv) In addition, when certification to the emergency exit provisions of § 23.807(d)(4) of this part is requested, downward, 6.0g, or any lesser force that will not be exceeded when the airplane, at design landing weight and with the landing gear retracted (where applicable), absorbs the landing loads resulting from impact with an ultimate descent rate of five feet per second.

Explanation

This proposal adds a downward inertia load requirement to the emergency landing ultimate static load factors when an applicant for type certification chooses to comply with the alternate emergency exit requirements of proposed § 23.807(d)(4) of this part. This proposed requirement is intended to ensure a specific minimum down load airframe strength to protect occupants from structural failures that could prevent exiting the airplane through the emergency exits or the passenger entry door after an emergency landing.

3. Section 23.783 is amended by adding a new paragraph (f) to read as follows:

§ 23.783 Doors.

* * * * *

(f) In addition, for commuter category airplanes, the following requirements apply:

(1) Each passenger entry door must qualify as a floor level emergency exit. This exit must have a rectangular opening of not less than 24 inches wide by 48 inches high, with corner radii not greater than one-third the width of the exit.

(2) If an integral stair is installed at a passenger entry door, the stair must be designed to that, when subjected to the inertia loads resulting from the ultimate static load factors in § 23.561(b)(2) and following the collapse of one or more legs of the landing gear, it will not reduce the effectiveness of emergency egress through the passenger entry door.

Explanation

This proposal moves certain requirements for commuter category airplane passenger entry doors and associated integral stairs from § 23.807(d)(1) to a new paragraph (f) in § 23.783 and adds the size and shape requirements for the passenger entry door. This proposed change is editorial and clarifies those standards that apply to the passenger entry doors of any commuter category airplane, regardless of the number of emergency exits in the airplane.

4. Section 23.803 is amended by designating the undesignated paragraph as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 23.803 Emergency evacuation.

* * * * *

(b) In addition, when certification to the emergency exit provisions of § 23.807(d)(4) of this part is requested, only the emergency lighting system required by § 23.812 of this part may be used to provide cabin interior illumination during the evacuation demonstration required in paragraph (a) of this section.

Explanation

Proposed § 23.812 requires that an emergency lighting system be installed when the applicant for type certification chooses to comply with the alternate emergency exit provisions of proposed § 23.807(d)(4) of this part. Proposed § 23.803(b) requires the use of that emergency lighting system during the emergency evacuation demonstration required for commuter category airplanes.

5. A new § 23.805 is added to read as follows:

§ 23.805 Flight crew emergency exits.

For airplanes where the proximity of the passenger emergency exits to the flight crew area does not offer a convenient and readily accessible means of evacuation for the flight crew, the following apply:

(a) There must be either one emergency exit on each side of the airplane, or a top hatch, in the flight crew area; and

(b) Each emergency exit must be located to allow rapid evacuation of the crew and have a size and shape of at least a 19- by 20-inch unobstructed rectangular opening, or be of sufficient size to allow rapid evacuation of the crew.

(c) For each emergency exit that is not less than six feet from the ground, an assisting means must be provided. The assisting means may be a rope or any other means demonstrated to be suitable for the purpose. If the assisting means is a rope, or an approved device equivalent to a rope, it must be—

(1) Attached to the fuselage structure at or above the top of the emergency exit opening, or for a device at a pilot's emergency exit window, at another approved location if the stowed device, or its attachment, would reduce the pilot's view in flight;

(2) Able (with its attachment) to withstand a 400-pound static load.

Explanation

This proposal adds requirements for emergency exits that are available to the flight crew. These proposed requirements exceed the operating requirements in § 135.87(c)(7), and are intended to ensure that the crew has ready access to an emergency exit when their access to the cabin area aft of the crew is blocked by cargo constraints or other barriers. Since both normal category (single and multiengine) and commuter category airplanes have been modified for hauling freight, where cargo restraint barriers were added that blocked crew access to the emergency exit in the passenger compartment, these standards are proposed to apply to all categories of airplanes certificated to the airworthiness standards of part 23. These proposed requirements are similar to existing requirements in § 25.805 for transport category airplanes.

6. Section 23.807 is amended by revising paragraph (d)(1), and by adding paragraphs (d) (3) and (4) and paragraph (e) to read as follows:

§ 23.807 Emergency exits.

* * * * *

(d) *Doors and exits.* In addition, for commuter category airplanes, the following requirements apply:

(1) In addition to the passenger entry door—

(i) For a total passenger seating capacity of 15 or fewer, an emergency exit, as defined in paragraph (b) of this section, is required on each side of the cabin; and

(ii) For a total passenger seating capacity of 16 through 19, three emergency exits, as defined in paragraph (b) of this section, are required with one on the same side as the door and two on the side opposite the door.

* * * * *

(3) Each required emergency exit, except floor level exits, must be located over the wing or, if not less than six feet from the ground, must be provided with acceptable means to assist the occupants to descend to the ground. Emergency exist must be distributed as uniformly as practical, taking into account passenger distribution.

(4) Unless the applicant has complied with paragraph (d)(1) of this section, there must be an emergency exit on the side of the cabin opposite the passenger entry door, provided—

(i) For passenger seating configurations of nine or fewer, the emergency exit has a rectangular opening of not less than 19 inches by 26 inches high with corner radii not greater than one-third the width of the exit, located over the wing, with a step up inside the airplane of not more than 29 inches and a step down outside the airplane of not more than 36 inches;

(ii) For a passenger seating configuration of 10 to 19 passengers, the emergency exit has a rectangular opening of not less than 20 inches wide by 36 inches high, with corner radii not greater than one-third the width of the exit and with a step up inside the airplane of not more than 20 inches. If the exit is located over the wing, the step down outside the airplane may not exceed 27 inches;

(iii) The airplane complies with the additional requirements of §§ 23.561(b)(2)(iv), 23.803(b), 23.811(c), 23.812, 23.813(b), and 23.815 of this part.

(e) For multiengine airplanes, ditching emergency exits must be provided in accordance with the following requirements, unless the emergency

exits required by paragraph (b) or (d) of this section already comply with them:

(1) One exit above the waterline on each side of the airplane with dimensions specified in paragraph (b) or (d) of this section, as applicable; and

(2) If side exits cannot be above the waterline, there must be a readily accessible overhead hatch that has a rectangular opening of not less than 20 inches wide by 36 inches long, with corner radii not greater than one-third the width of the exit.

Explanation

This proposal allows type certification of commuter category airplanes configured with one emergency exit on the side of the cabin opposite the passenger entry door, when additional cabin safety features are provided in the airplane design. This proposal states the additional cabin safety features required to comply with the alternative emergency exit provisions. This proposal includes the specific additional requirements for the emergency exits that are applicable when the applicant chooses to comply with the alternate emergency exit provisions. This proposal removes specific requirements for the passenger entry door and associated integral stairs from § 23.807(d)(1) since those requirements are stated in proposed § 23.783(f). This proposal also moves, from § 23.807(d)(1) to a new § 23.807(d)(3), the requirement that each emergency exit that is not a floor level exit must be located over a wing or, if not less than six feet from the ground, must have a means to assist occupants in reaching the ground.

Because there are many airports where takeoffs and landings are conducted over large bodies of water, this proposal includes standards for multiengine airplanes that require ditching emergency exits to be located above the waterline. This proposal ensures that the airplane occupants have a means of exiting the airplane following an emergency landing in water.

7. Section 23.811 is amended by adding a new paragraph (c) to read as follows:

§ 23.811 Emergency exit marking.

* * * * *

(c) In addition, when certification to the emergency exit provisions of § 23.807(d)(4) of this part is required, the following apply:

(1) Each emergency exit, its means of access, and its means of opening, must be conspicuously marked;

(2) The identity and location of each emergency exit must be recognizable from a distance equal to the width of the cabin;

(3) Means must be provided to assist occupants in locating the emergency exits in conditions of dense smoke;

(4) The location of the operating handle and instructions for opening each emergency exit from inside the airplane must be shown by marking that is readable from a distance of 30 inches; and

(5) Each passenger entry door operating handle must—

(i) Be self-illuminated with an initial brightness of at least 160 microlamberts; or

(ii) Be conspicuously located and well illuminated by the emergency lighting even in conditions of occupant crowding at the door.

(6) Each passenger entry door with a locking mechanism that is released by rotary motion of the handle must be marked—

(i) With a red arrow, with a shaft of at least three-fourths of an inch wide and a head twice the width of the shaft, extending along at least 70 degrees of arc at a radius approximately equal to three-fourths of the handle length;

(ii) So that the centerline of the exit handle is within ± one inch of the projected point of the arrow when the handle has reached full travel and has released the locking mechanism; and

(iii) With the word "open" in red letters, one inch high, placed horizontally near the head of the arrow.

(7) In addition to the requirements of paragraph (a) of this section, the external marking of each emergency exit must—

(i) Include a 2-inch colorband outlining the exit; and

(ii) Have a color contrast that is readily distinguishable from the surrounding fuselage surface. The contrast must be such that if the reflectance of the darker color is 15 percent or less, the reflectance of the lighter color must be at least 45 percent. "Reflectance" is the ratio of the luminous flux reflected by a body to the luminous flux it receives. When the reflectance of the darker color is greater than 15 percent, at least a 30 percent difference between its reflectance and the reflectance of the lighter color must be provided.

Explanation

This proposal adds emergency exit marking requirements to be applicable when an applicant for type certification chooses to comply with the alternate emergency exit provisions of proposed § 23.807(d)(4) of this part. These proposed requirements would result in emergency exits that are easier to locate in adverse conditions and easier to open once located. The proposal includes additional requirements for both internal and external marking of the emergency exits.

8. A new § 23.812 is added to read as follows:

§ 23.812 Emergency lighting.

In addition, when certification to the emergency exit provisions of § 23.807(d)(4) of this part is requested, the following apply:

(a) An emergency lighting system, independent of the main cabin lighting system, must be installed. However, the source of general cabin illumination may be common to both the emergency and main lighting systems, if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(b) There must be a crew warning light that illuminates in the cockpit when power is on in the airplane and the emergency lighting control device is not armed.

(c) The emergency lights must be operable manually from the flight crew station and be provided with automatic activation. The cockpit control device must have an "on," "off," and "armed" position so that, when armed in the cockpit, the lights will operate by automatic activation.

(d) There must be a means to safeguard against inadvertent operation of the control device from the "armed" or "on" positions.

(e) The control device must have provisions to allow the emergency lighting system to be armed or activated at any time that it may be needed.

(f) When armed, the emergency lighting system must activate and remain lighted when—

(1) The normal electrical power of the airplane is lost; or

(2) The airplane is subjected to an impact that results in a deceleration in excess of 2g and a velocity change in excess of 3.5 feet-per-second, acting along the longitudinal axis of the airplane; or

(3) Any other emergency conditions exists where automatic activation of the emergency lighting is necessary to aid with occupant evacuation.

(g) The emergency lighting system must be capable of being turned off and reset by the flight crew after automatic activation.

(h) The emergency lighting system must provide internal lighting, including—

(1) Illuminated emergency exit marking and locating signs, including those required in § 23.811(b) of this part;

(2) Sources of general illumination in the cabin that provide an average illumination of not less than 0.05 foot-candle and an illumination at any point of not less than 0.01 foot-candle when measured along the centerline of the main passenger aisle(s) and at the seat armrest height;

(3) Floor proximity emergency escape path marking that provides emergency evacuation guidance for the airplane

occupants when all sources of illumination more than 4 feet above the cabin aisle floor are totally obscured.

(i) The energy supply to each emergency lighting unit must provide the required level of illumination for at least 10 minutes at the critical ambient conditions after activation of the emergency lighting system.

(j) If rechargeable batteries are used as the energy supply for the emergency lighting system, they may be recharged from the main electrical power system of the airplane provided the charging circuit is designed to preclude inadvertent battery discharge into the charging circuit faults. If the emergency lighting system does not include a charging circuit, battery condition monitors are required.

(k) Components of the emergency lighting system, including batteries, wiring, relays, lamps, and switches must be capable of normal operation after being subjected to the inertia forces resulting from the ultimate load factors prescribed in § 23.561(b)(2) of this part.

(l) The emergency lighting system must be designed so that after any single transverse vertical separation of the fuselage during a crash landing:

(1) At least 75 percent of all electrically illuminated emergency lights, required by this section, remain operative; and

(2) Each electrically illuminated exit sign required by paragraphs (b) and (c) of § 23.811 remains operative, except those that are directly damaged by the fuselage separation.

Explanation

This proposal adds requirements for an emergency lighting system, to be applicable when an applicant for type certification chooses to comply with the alternate emergency exit provisions of proposed § 23.807(d)(4) of this part. The proposal defines specific minimum requirements for supplying power, arming, and activating the emergency lighting system. The impact-activation requirement is consistent with that for emergency locator transmitters. The proposal also includes illumination, function, and survivability requirements for the emergency lighting system. An emergency lighting system complying with these proposed requirements would aid occupants in locating the emergency exits and getting to those exits after an emergency landing.

9. Section 23.813 is amended by designating the undesignated paragraph as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 23.813 Emergency exit access.

* * * * *

(b) In addition, when certification to the emergency exit provisions of § 23.807(d)(4) of this part is requested, the following emergency exit access must be provided:

(1) The passageway leading from the aisle to the passenger entry door must be unobstructed and at least 20 inches wide;

(2) There must be enough space next to the passenger entry door to allow assistance in evacuation of passengers without reducing the unobstructed width of the passageway below 20 inches;

(3) If it is necessary to pass through a passageway between passenger compartments to reach any required emergency exit from any seat in the passenger cabin, the passageway must be unobstructed; however, curtains may be used if they allow free entry through the passageway;

(4) No door may be installed in any partition between passenger compartments; and

(5) If it is necessary to pass through a doorway separating the passenger cabin from other areas to reach any required emergency exit from any passenger seat, the door must have a means to latch it in the open position. The latching means must be able to withstand the loads imposed upon it by the door when the door is subjected to the inertia loads resulting from the ultimate static load factors prescribed in § 23.561(b)(2) of this part.

Explanation

This proposal adds requirements to ensure emergency exit accessibility, to be applicable when an applicant for type certification choose to comply with the alternate emergency exit provisions of proposed § 23.807(d)(4) of this part. Structural failures or yielding of the airframe can occur during an emergency landing or minor crash event that may result in one or more emergency exits or the passenger door becoming unopenable. Since the total number of exits available for emergency egress can be fewer with the alternate emergency exit requirements, this proposal defines minimum unobstructed aisle width at the passenger entry door and adds other requirements to ensure that any partitions or doorways within the passenger compartment will not hinder occupant access to the exits during an emergency situation.

10. Section 23.815 is amended by designating the exiting paragraph as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 23.815 Width of aisle.

* * * * *

(b) Instead of the requirements in paragraph (a) of this section, when certification to the emergency exit provisions of § 23.807(b)(4) of this part is requested, the main passenger aisle width at any point between the seats must equal or exceed the following values:

Number of passenger seats	Minimum main passenger aisle width (inches)	
	Less than 25 inches from floor	25 inches and more from floor
10 or fewer	[1] 12	15
11 through 19	12	20

[1] A narrower width not less than 9 inches may be approved when substantiated by tests found necessary by the Administrator.

Explanation

This proposal requires increased aisle widths to be applicable when an applicant for type certification chooses to comply with the alternate emergency exit provisions of proposed § 23.807(d)(4) of this part. The proposed increased aisle width requirements are intended to ensure that the airplane passengers can reach an exit in an emergency situation even though the floor structure has been warped or there are seats or other items protruding into the normal aisle space.

Issued in Washington, DC on 23 August 1990.

Thomas E. McSweeny,

Acting Director, Aircraft Certification Service.

[FR Doc. 90-20372 Filed 8-29-90; 8:45 am]

BILLING CODE 4910-13-M

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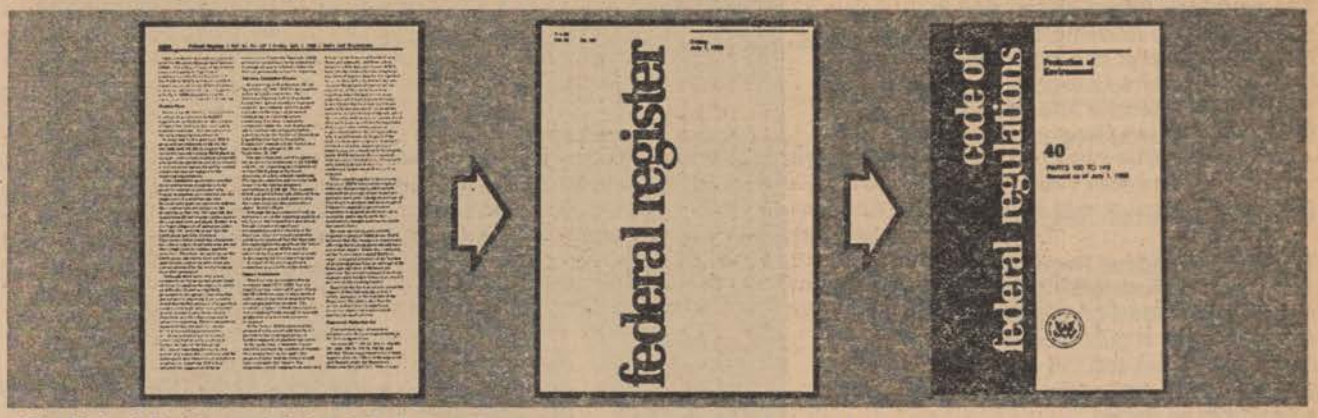

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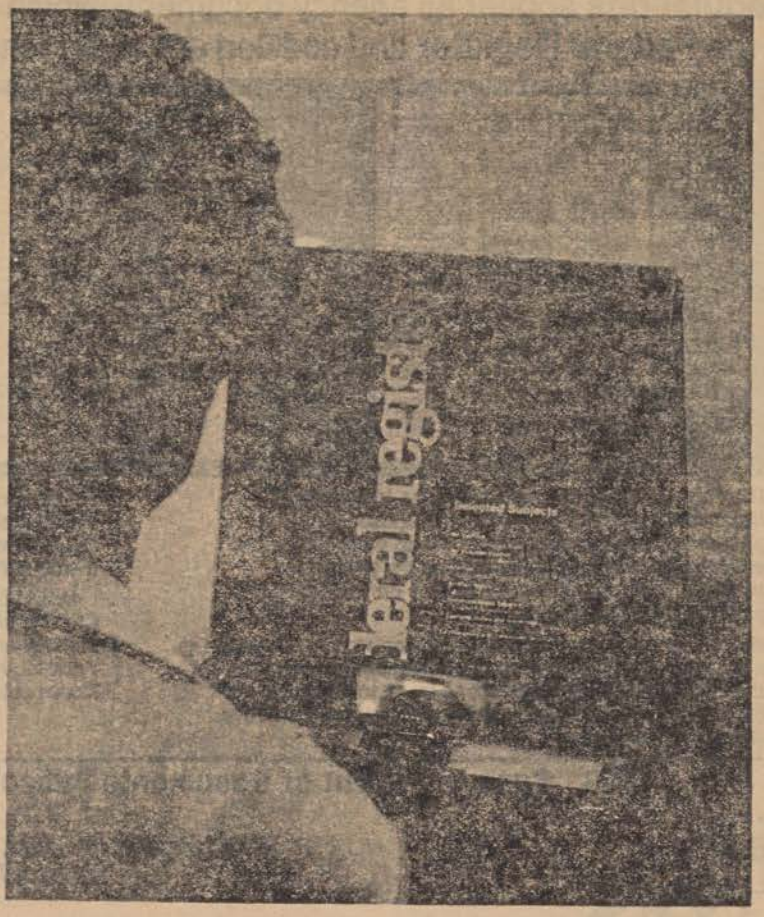

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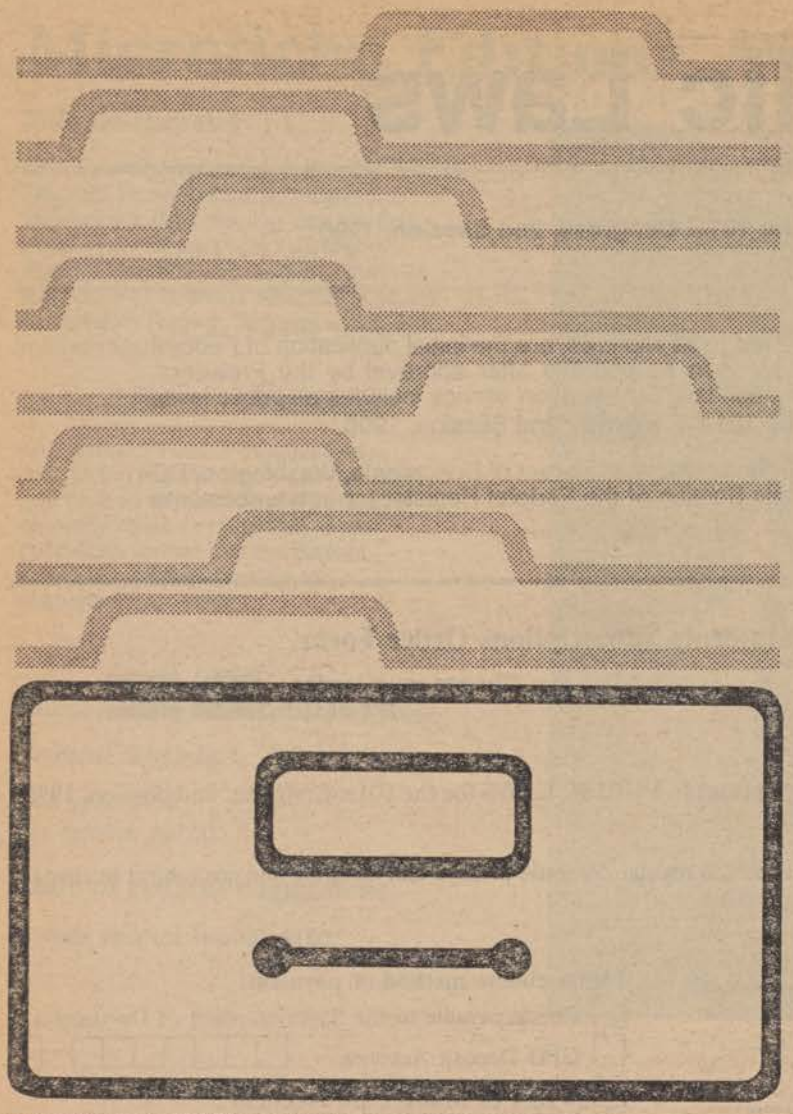

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